Supreme Court, U.S.
F I L E D

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In The
Supreme Court Of The United States
October Term, 1997

Donald Gill,
John M. Carlevale, Sr.
Robert F. Plante, and other
similarly situated citizens,
Petitioners,

v.

State of Rhode Island
Barbara Leonard, in her official capacity as Secretary of State,
Members of the Rhode Island General Assembly, in their official capacity, Bruce Sundlun, in his official capacity as Governor,
Joseph Di Stephano, in his capacity as Chairman of the State Board of Elections,
Guy Dufault, in his capacity as Chairman of the R.I. State Democratic Committee,
John Holmes, in his capacity as Chairman of the R.I. State Republican Committee,
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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152 pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Petitoner's Constitutional rights, guaranteed in both the Federal and State Constitutions[1], which declare a person's right to vote in "any election" and "for all offices," where violated when the Petitioners, having three different political party affiliations[2] and not qualified to vote in all three primary elections, were denied their right to vote for all federal candidates and state offices, denied the right to vote for each other and other candidates of their choice in Rhode Island's state established and financed "closed primary" system, did the State violate their Constitutional rights to vote in any election, for all offices and further deny their rights of association, privacy, privacy of association and the equal protection of the laws?

2. Whether the Petitioners' civil rights complaint should have rose to a level of strict scrutiny and not the flexible standard, nor the rational basis standard applied by the District Court, and considered by the 1st Circuit Court, which required the State to put forward the State's compelling interest "the precise interests put forward by the State as justifications for the burden imposed by its rule[3]," which the Court did not required the state to do and failed to do.

3. Whether in the absence of the State not justifying its own "state-interest" in this matter, does the District Court for the District of R.I. have the jurisdiction to enforce and apply its own "compelling state's interest" standards and establish and apply its own rational standard basis and it's own flexible standard test as it did in its Opinion?

4. Whether the District Court inappropriately failed to address the Petitioners' many demands for a trial by jury on "all matters of fact'" and also the 1st Circuit Court, especially since the *7th Amendment to the U.S. Constitution,* states "In suits at common law, where the

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[1] US Const., 14th Amend., Section 2, pg. A96 (any election,), RI Const., Art. II, Section 1, pg. A97 (all offices).

[2] Rhode Island's election laws require all registered voters to register by party affiliation or the lack thereof. (see voter registration form at A50-51.

[3] Anderson v. Celebrezze, 460 U.S. 780, 789 (1).983 (see D.C. Opinion at A14, paragraph 1.)

value in question shall exceed twenty dollars, the right of trial by jury shall be preserved." and *Article I, 15 of the Rhode Island Constitution* guarantees "The right of trial by jury shall remain inviolate?"

5. Whether in the absence of a Constitutional delegated authority, can the State of Rhode Island establish, endorse, support, maintain and protect private political parties with laws, which give the political parties and their members a superior political liberties and superior civil rights than those of the non-appellees?

6. Whether Rhode Island's "closed-primaries," which are held exclusively for the benefit of private political parties, whose total membership account for only 38% of Rhode Island's registered voters (11% Republican and 28% Democrat), to select "endorsed" party candidates for elective office, private party elections, which are wholly paid for by all of the state's taxpayer's, constitute a compelling state's interest which is greater than the unaffiliated voter who accounts for 62% of the registered voters?

7. Whether in the absence of a Constitutional delegated authority, can the State of Rhode Island establish, endorse, support, maintain and protect a "two-party" political system, without the consent of the people?

8. Whether since the government of Rhode Island recognizes only the full political liberties and civil rights of state-established parties, can the State of Rhode Island, in the name of a compelling state's interest, without stating what that state interest is, Constitutionally prohibit or stifle the number of state-established political parties?

9. Whether a state's compelling interest or a Party's interest lie in a "two-party" political system, wherein 100% of the state's law-makers are members of the state's two state-established parties and whose members represent only 38% of the registered voters, compared with the state's political interest of 62% of the registered voters with no state-established political party affiliation?

10. Whether the State of Rhode Island, the Democrat and Republican parties who have over the last nine decades created and aggravated the state's election laws, and minimized, the political and civil liberties of most Rhode Island citizens, voters and all independent voters, independent political parties, independent candidates, unaffiliated voters, and whose policies and practices systematically afford state-established political parties and their endorsed candidates greater political liberties, greater political opportunities and favored ballot access, must take all affirmative steps to eliminate discriminatory election laws, rules requirements, practices and other political liberties and civil rights violations found in the Rhode Island General Laws.

11. Whether Rhode Island's election laws requiring the Petitioners and other similarly situated voters to register to vote by political party affiliation, or the lack thereof, violates and intrudes upon the Petitioners and other similarly situated voters' Federal and State Constitutional rights of expression, privacy, association and privacy of association?

12. Whether the configuration and the preferred ballot positions of the Rhode Island ballots, is politically neutral, ballots which displays the political party logo and party name at the head of the column and gives the Parties and their endorsed candidates the preferred first two columns, violates the Petitioners and other similarly situated citizens, the right to the equal protection of the law.

13. Whether R.I.G.L. 17-8-1, Appointment of bipartisan authority.-, considering the powers and duties given to a bipartisan authority pursuant to *Section 5, Chapter 8 of Title 17* and the politically discriminatory nature of the board's make-up, severely impinged on the political liberties and civil rights of the Petitioners, unaffiliated voters, independent voters, and other similarly situated citizens, their rights of association, privacy, the privacy of voter registration, the privacy of association and the equal protection of the laws, since Rhode Island's 39 cities and towns' bipartisan canvassing authorities are, by state law, restricted to members of state-established political parties, representing only 38% of the State's registered voters and

thereby effectively denied the equal opportunity and protection of the law to the Petitioners, unaffiliated voters, and independent voters, who represented 62% of the State's registered voters.?

14. Whether the State's voter registration law (R.I.G.L. 17-9-26) requiring the Petitioners and other voters to register by political party affiliation or the lack thereof , violates the Petitioners and other voter's right of expression, privacy, association, privacy of association and the equal protection of the laws?

15. Whether R.I.G.L. 17-8-1. Appointment of bipartisan authority.-, which impinges on the majority of the State's citizens' political liberties and civil rights, should have required the Courts, in determining the issues, to apply a strict scrutiny standard and also required the State to put forward and prove its compelling interest when the Court determined the degree that the State's election laws impinged on the political and civil rights of the Petitioners, unaffiliated voters, independent voters, and citizens, impaired, violated and denied their rights of expression, association, privacy, the privacy of voter registration, and the equal protection of the laws?

16. Whether R.I.G.L. 17-14-4. Preparation of nomination papers for candidates - Combination of endorsed candidates - Furnishing of nomination paper to candidates.- R.I.G.L. 17-14-4, which gives candidates for nomination for different offices, endorsed by an appropriate committee of any state-established private party, the advantage of having their names placed on a single combined nomination papers, requiring only one qualified nomination signature to apply to the slate of endorsed candidates, while unendorsed candidates and unaffiliated candidates must gather individual signatures which apply to only one candidate, denies and disadvantages the Petitioners and all other unendorsed candidates, unaffiliated voters, independent voters, and other similarly situated citizens, who are members of state-established private political parties or are otherwise legally qualified candidates, an equal opportunity to access of the ballot and violates their rights of expression, association, privacy, the privacy of voter registration, and the equal protection of the laws.

17. Whether R.I.G.L., Title 107, Chapter 15 in its totality, which provides for separate political party primary elections and also establishes a closed state-established private political party primaries, in which only affiliated party members may vote, unless a person who has been, by law, registered as an independent or unaffiliated or a member of a party, not officially recognized by the state, may vote in a single party primary; however, in doing so, that person becomes affiliated with that party in whose primary that person voted; that person and all other persons who voted in a party primary are denied their right of full ballot access to all elections and the right to vote and to choose different party candidates of their choice, regardless of party affiliation, for any Representatives in the US Congress and to vote for all offices in primary elections for RI Executive, Judicial Officers and the member of the State legislature, as provided for in, *Second 2. of the 14th Amendment of the United States Constitution* and *Article II, Section 1 of the Rhode Island Constitution* compelling state's interest, because, in effect, such practices deny Petitioners, independent voters, unaffiliated voters and all other voters full ballot access to vote for all the candidates of their choice for a particular office, and also, whether their rights of expression, association, privacy, the privacy of voter registration, the privacy of association and the equal protection of the laws have been violated?

18. Whether R.I.G.L. 17-25-20(6),(a),(b)(c), Eligibility criteria for matching public funds.- which creates three additional requirements *R.I.G.L. 17-25-20(6), (a), (b), and (c)* for any independent candidate to receive public funds, violates the independent candidate and independent or unaffiliated voter of his rights of expression, association, privacy, the privacy of voter registration, the privacy of association and the equal protection of the laws?

19. Whether, R.I.G.L. 17-1-2, Definitions.- which fails to define a political party as an incorporated private association-there is a constitutional imperative which makes it a state's compelling interest to establish, support, protect, and maintain select private incorporated associations at taxpayers expense?

20. Whether state election laws should be politically neutral and unbiased since all the political elections are paid for by taxpayers and should the state use its regulatory powers in an equally applied manner in regulating the political process, or are political parties, unlike any other private corporation, which do not have their internal affairs regulated, nor do they have their affairs, existence and business subsidized, supported, maintained and protected by State laws, are they in reality governmental instrumentalities or de facto government agencies, and does the state exceed its regulatory powers and violate certain provisions within treaties, the United States Constitution, and the Rhode Island Constitution?

21. Whether a compelling state's interest lies in a closed, state established "two-party" system when in fact 62% of Rhode Island's registered voters are unaffiliated and all taxpayers pay to maintain a two-party system?

22. Whether the Petitioners' many demands for a trial by jury on all matters of fact were inappropriately not addressed by the District Court for the District of Rhode Island and the 1st Circuit Court, especially since the *7th Amendment to the U.S. Constitution,* states "In suits at common law, where the value in question shall exceed twenty dollars, the right of trial by jury shall be preserved." and *Article I, Section 15 of the Rhode Island Constitution* guarantees "The right of trial by jury shall remain inviolate?"

23. Whether Rhode Island General Laws Income Tax Laws, § 44-30-2(e), and Election Laws, § 17-25-18 through § 17-25-30.1 providing free advertising on public television and a tax-credit on tax returns, which include other tax money, can be used to support and promote the political interest, of only certain state-established private political parties or individuals, deny and intrude upon the political liberties and rights, of the majority of the State's registered voters and other people who don't share the political philosophies or political interest of the State's established private political party system?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings are Petitioners Donald Gill, John M. Carlevale, Sr., Robert F. Plante, and all other similarly situated citizens, and Respondents State of Rhode Island, Barbara Leonard, in her official capacity as Secretary of State, Members of the Rhode Island General Assembly, in their official capacity, Bruce Sundlun, in his official capacity as Governor, Joseph Di Stephano, in his capacity as Chairman of the State Board of Elections, Guy Dufault, in his capacity as Chairman of the R.I. State Democratic Committee, and John Holmes, in his capacity as Chairman of the R.I. State Republican Committee.

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IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1997

No. 97-

DONALD GILL,
JOHN M. CARLEVALE, SR.
ROBERT F. PLANTE, AND OTHER
SIMILARLY SITUATED CITIZENS,
Petitioners,
V.
STATE OF RHODE ISLAND
BARBARA LEONARD, IN HER OFFICIAL CAPACITY AS
SECRETARY OF STATE,
MEMBERS OF THE RHODE ISLAND GENERAL ASSEMBLY, IN
THEIR OFFICIAL CAPACITY, BRUCE SUNDLUN, IN HIS OFFICIAL
CAPACITY AS GOVERNOR,
JOSEPH DI STEPHANO, IN HIS CAPACITY AS CHAIRMAN OF THE
STATE BOARD OF ELECTIONS,
GUY DUFAULT, IN HIS CAPACITY AS CHAIRMAN OF THE R.I.
STATE DEMOCRATIC COMMITTEE,
JOHN HOLMES, IN HIS CAPACITY AS CHAIRMAN OF THE R.I.
STATE REPUBLICAN COMMITTEE,
Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

OPINIONS BELOW

The February 6, 1997 opinion of the Court of Appeals, whose judgment is herein sought to be reviewed, is reported at **[not reported]** and is reprinted in the separate Appendix (see Appendix Table of Contents) of this petition. The prior opinions of the United States District Court for the

District of Rhode Island, also reprinted in the Appendix, are reported as follows: 7-12-96.
Recusal requests
6/22/94 Relief Complaint filed with demand for Jury Trial
7/25/94 Motion to recuse.
7/25/94 Minute entry: Hearing held on motion to recuse/motion TRO. Denied.
8/23/94 Motions referred: [12-1] motion for Default Judgment against Defendants referred to Magistrate Judge Timothy M. Boudewyns for a Report & Recommendations.
9/13/94 Motion hearings re: [12-1] motion for Default Judgment against Defendants before Magistrate Judge Boudewyns.
11/9/94 MANDATE OF USCA Re: [35-1] appeal by Plaintiffs. Motion for Emergency Hearing denied.
12/6/94 Motions referred: [40-1] motion for Summary Judgment referred to Magistrate Judge Boudewyns for Report & Recommendations.
12/29/94 MANDATE OF USCA Re: [35-1] appeal by Plaintiffs "...DISMISSED for want of prosecution."
1/3/95 ORDER denying [42-1] motion for Temporary Restraining Order, preliminary injunction & permanent injunction to stop swearing in of persons, elected in the disputed 1994 elections denied, signed by Boyle on 12/30/94.
1/13/95 Status conference held before Magistrate Judge Boudewyns. Plaintiff Gill agrees to withdraw his motion for summary judgment without prejudice1/18/95 ORDER withdrawing [40-1] motion for Summary Judgment by plaintiffs signed by Magistrate Judge Boudewyns.
1/19/95 Order denying motion for three-judge court. (1/11/95 Motion by Plaintiffs for a Three-Judge Court).
2/17/95 Order denying motion to vacate order denying a three-judge court.(2/3/95 Motion to vacate order denying three-judge court)
4/13/95 Pretrial conference set for 4/25/95 before Boyle.
4/25/95 Minute entry: In-court conference: Briefs for all parties due 6/30/95. Ten days from today to amend the complaint for Plaintiffs. Conference to be scheduled.
5/17/95 ORDER denying [66-1] motion to Strike Plaintiffs withdrawal of motion for summary judgment signed by Boyle. (Motion by Plaintiff Almonte to Strike Pl.'s withdrawal of m/ summary judgment.
5/17/95 ORDER denying [66-1] motion to vacate [65-1] Scheduling order signed by Boyle. (Motion by Plaintiffs Gill, Carlevale, Devine, and Plante.).
7/20/95 ORDER denying [71-1] opposition response signed by Boyle. (Motion by Plaintiffs in opposition to Defendants memorandum filed in response to 4/25/95 [65-1] Scheduling order.

7/28/95 Motion hearing re: [70-1] motion for Judgment on the Pleadings on 8/7/95 before Magistrate Judge Boudewyns.
8/1/95 denying [77-1] motion to reschedule August 7, 1995 Hearing signed by Magistrate Judge Boudewyns. (Motion by Plaintiffs to reschedule 8/7/95 Hearing).
8/7/95 Motion hearing re: [70-1] motion for Judgment on the Pleadings held before Magistrate Judge Boudewyns. Motion taken under advisement.
8/10/95 Report and Recommendations of Magistrate Judge Boudewyns re: [70-1] motion for Judgment on the Pleadings recommended that Plaintiffs motion be denied; Motion no longer referred; Objections to R & R due by 8/28/95.
9/3/95 ORDER denying [80-1] motion for Temporary Restraining Order and Preliminary Injunction signed by Boyle. (Motion by Plaintiffs for Temporary Restraining Order and Preliminary Injunction against staying swearing in of officials.).
9/18/95 ORDER denying [70-1] motion for Judgment on the Pleadings signed by Boyle.
4/3/96 Motion for speedy trial (no response from Court)
(5/30/96 Motion for writ of mandamus to first circuit court of appeals.).
6/19/96 Mandate of USCA: Petition for mandamus denied.
6/19/96 MANDATE OF USCA Re: Plaintiffs petition for mandamus. Petition denied.
7/12/96 MEMORANDUM and ORDER directing entry of judgment for defendants for costs signed by Boyle.
7/12/96 JUDGMENT for Defendants against Plaintiffs, signed by Boyle.
7/12/96 Case closed.
8/9/96 NOTICE OF APPEAL by Plaintiffs Gill, Carlevale, and Plante.
8/13/96 Certified and transmitted record on appeal to US Court of Appeals.
1/6/97 ORDER OF COURT Construing appellants "objection" to brief of appellees, John Holmes and Guy Dufault, as a motion to strike that brief, it is denied. (Appellants objection to Defendants "Brief of Appellants").
2/6/97 JUDGMENT entered. The judgment of the district court is affirmed by USCA for the First Circuit. Per Curiam.
3/6/97 ORDER OF COURT The motion for rehearing for reconsideration, which also seeks oral argument and publication of USCA opinion is denied. (Motion by Appellants for rehearing for reconsideration, which also seeks oral argument and publication of USCA opinion).

JURISDICTIONAL GROUNDS

The United States Court of Appeals for the First Circuit issued its Opinion February 6, 1997. The Court denied the Petition for Oral Auguements and Reconsideration on March 6, 1997. This Court has jurisdiction under Article III, Section 2 of the U.S. Constitution and 28 U.S.C.A § 1331.

STATUTES and TREATY PROVISIONS INVOLVED

First Amendment.
Fourth Amendment.
Fifth Amendment.
Seventh Amendment.
Ninth Amendment.
Tenth Amendment.
Twelfth Amendment.
Fourteenth Amendment, Sections 1 and 2
Section 2.
Twenty-fourth Amendment. Section 1.

Rhode Island Constitution

Article I, Declaration of Certain Rights and Principles.
Section 2.
Section 6.
Section 21.
Section 24.
Article II, Section 1, Of Suffrage.
Section 2.
Article VI, Section 14, Of Legislative Powers.

Rhode Island General Laws (Election Laws)

17-8-1. Appointment of bipartisan authority.
17-8-5. Local boards--powers and duties--quorum.-
17-14-4. Preparation of nomination papers for candidates --combination of endorsed candidates--furnishing of nomination papers to candidates.
17-15-1. Date of primaries.-
17-15-8. Listing of candidates on ballots and ballot labels.-
17-25-20 Eligibility criteria for matching public funds.-
17-1-2 General provision, definitions.- (f) (g) (n) (o) (p)
(p) "Party voter" shall mean any qualified voter who is eligible to vote at the primary election of a political party;

CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE; DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION,

STATEMENT OF CASE

A. Statement of facts

This a political liberties and civil rights action brought by Donald Gill, John M. Carlevale, Sr., Robert F. Plante, Anthony Almonte and Joseph F. Devine, in their capacities as candidates, voters and citizens and other similarly situated persons, on June 22, 1994 pursuant to 28 USC 1331, 28 USC 1332, 15 USC, and 18 USC 1951. While the litigation followed the constitutionality of approximately 155 Rhode Island Election Laws, the complaint also sought a jury trial to determine if the Petitioners and other similarly situated persons' political liberties and civil rights were violated by the election laws and the electoral processes the laws created.

If Rosa Parks, a black woman, were to board a bus today and take a seat at the front of the bus, and because of her color, subsequently ordered by the bus driver to take a seat in the back of the bus, most American's would be outraged. And certainly, if Ms. Parks brought this matter before the civil authority or to the U.S. Supreme Court today, the civil authority and the Court would find in her favor and protect her civil right to sit anywhere on the bus, just as the Court found in Rosa Parks' 1955 case. It must be remembered that Mrs. Parks wasn't denied her right to ride in the bus; she was denied by law, her full freedom to the equal access and enjoyment of the bus.

In 1994, the year the Petitioners filed this action in the District Court for Rhode Island, Rhode Island was represented in the U.S. Congress by four Congressional representatives, two of which were Senators and two were Representatives. Rhode Island's state government consisted of an Executive Branch, made-up of five separately elected general officers (Governor, Lieutenant Governor, Secretary of State, Attorney General and General Treasurer); a General Assembly consisting of fifty State Senators and one hundred State Representatives; and an appointed Judiciary. All elected state officials were elected to either a four year term or a two year term. Rhode Island's thirty-nine cities and towns have a variety of democratic forms of local governments. All members of the town or city councils and the executives of some cities and towns (some cities and towns having a professional administrator appointed by a city or town council) are elected in general or off-year elections.

Prior to the Petitioners 1994 complaint *(C.A. No. 0331-B)* challenging the Constitutionality of certain Rhode Island Election Laws, the Petitioners Devine, Carlevale, and Almonte as Plaintiffs filed a complaint , *C.A. No. 92-0580-P,* seeking relief from an unlawful ballot configuration in the D.C. for R.I., which was joined by the USPAC a fledgling political reform party in which Petitioner Plante was a member and a Plaintiff. Petitioner Gill did not join the suit, but appeared at the 1993 trial as a witness, testifying as to how the ballot configuration had injured his civil rights and political liberties. During the 1993 trial the Plaintiffs motioned the Court to amend their complaint, which would have allowed the Plaintiffs to challenge the Constitutionality of the R.I. Election Laws. While finding *(Judge Pettine's July 14, 1993 decision)* that the challenged ballot configuration had violated the Plaintiffs' 1st and 14th Amendment rights, DC Judge Raymond Pettine also ruled that he had denied the Plaintiffs' Motion to Amend, because if allowed it would prejudice the Defendants and that the Plaintiffs could re-filed the Motion at any time *(See Judge Pettine's decision at page)*

The Petitioner waited to see what, if any changes would be made to the election laws in the 1993 and 1994 sessions of the R.I. General Assembly. The Petitioners on learning that the General Assembly had not proposed or enacted any significant changes to the election laws, on June 22, 1994, five days prior to the beginning of Rhode Island's 1994 election process, which began on June 27th, the beginning of a three day period in which a candidate for public office has to file a Declaration of Candidacy *(R.I.G.L. 17-14-4),* the Petitioners, intending to run for office (Gill, Democrat for Governor; Devine, Republican for Governor; Plante, Republican for Lt. Governor; Carlevale, Democrat for Secretary of State; Almonte, Independent for Attorney General) filed a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction, seeking relief in the D.C. for R.I., and also, to stay the 1994 Rhode Island's election process, until such time the Constitutionality of the election laws had been determined. At this same time the Petitioners also filed a complaint seeking relief from approximately 155 of the Rhode Island Election Laws that had injured the Respondents in the preceding 1992 Rhode Island general election.

The Plaintiffs ran for various public offices in 1992 as "independents" or "unaffiliated" candidates. The Rhode Island election laws seriously impaired their efforts as candidates and also denied them of certain civil rights and political liberties. To lessen this impairment and denial of rights and liberties, four of the five Plaintiffs decided to declare themselves as Democrat or Republican candidates in the 1994 elections. Understanding that they would be unendorsed Democrat and unendorsed Republican candidates, the Plaintiffs realized that their civil rights and political liberties would still be impaired and denied by the Rhode Island election laws,

because the Rhode Island election laws permit unequal treatment and impose different requirements of not only independent candidates, but also of unendorsed Democrat and unendorsed Republican candidates.

Hence, this case evolved and became a constitutional challenge of the Rhode Island Election Laws. The essence of the Plaintiffs complaint is that the Rhode Island election laws impair, violate and deny their civil rights and political liberties guaranteed by the US Constitution and the R.I. Constitution.

HISTORICAL NOTE: This case has its origins in a previous case (C.A. No. 92-0580-P)[1] heard by the US District Court for RI before Justice Raymond J. Pettine. Plaintiffs Devine, Carlevale and Almonte filed a complaint concerning ballot configuration and constitutional challenge of the Rhode Island election laws. The Court held an emergency hearing on October 30, 1992 and immediately thereafter issued a written Memorandum and Order granting relief to the Plaintiffs just several days prior to the November 6, 1992 general election. In hearings after the general election, Pettine advised that the constitutional challenge would prejudice[2] the Defendants and Pettine further advised that the constitutional challenge be withdrawn and re-filed at another time. Consenting, the Plaintiffs withdrew the constitutional challenge and the case proceeded. A judgment was entered in favor of the Plaintiffs on July 14, 1993. Pettine found that Rhode Island's ballot configuration practices "violates the First and Fourteenth Amendments. The defendants are hereby permanently enjoined from utilizing this configuration in future statewide election."

The Pettine Order necessitated that the practices and procedures of the Rhode Island election laws be amended. Minor changes in the Rhode Island election laws did follow, but were not politically neutral as the Plaintiffs repeatedly advised during hearings on the Devine case. Additionally, the many other areas of contention contained within the constitutional challenge part of the Devine case had not been resolved by the RI General Assembly, that is no laws were passed to resolve the matters the Plaintiffs complained about with reference to the violation and denial of their civil rights and political liberties.

For example, the election laws[3] require independent and unendorsed Democrat and Republican candidates to individually and singularly obtain signatures on their respective nomination papers. Endorsed Democrat and Republican candidates have their names listed on a combined nomination

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[1] *Devine v. State of Rhode Island, 827 F.Supp. 852 (D.R.I. 1993), registration* (at A110)

[2] *see pages 30 and 31 of Pettine's decision, C.A. No. 92-0580-P, at A36-37.*

[3] *R.I.G.L. 17-14-4 at A74-75.*

paper. Hence, a registered voter signs once for all endorsed party candidates. Independent and unendorsed candidates are not allowed to have their names combined on one nomination paper in party like manner. Hence there are two distinct and different procedures and practices established for the different classes of candidates.

Given such practices, consequently, Plaintiffs Gill, et al filed their complaint on June 22, 1994 (CA 94-0331B) to prevent further harm to them and others similarly situated by the Rhode Island election laws during the upcoming 1994 primary and general elections.

At the time this action was commenced, the Plaintiffs also filed a motion for a preliminary injunction asking that the court enjoin the 1994 Rhode Island primary election and general election. The court denied the motion on July 25, 1994. The elections proceeded under unconstitutional laws.

In June 1994 candidates file their declaration of candidacy[4]. Qualified candidates with a Democrat affiliation are included on the ballot for the Democrat primary in September. Likewise, qualified candidates with a Republican affiliation are included on the ballot in the Republican primary in September. All other qualified candidates, with affiliations other than Democrat or Republican, are listed on the ballot for the general election in November. There are no primary elections for "independent" candidates. In 1994 there were two officially recognized parties-Democrat and Republican.

Following declaration of Plaintiffs' candidacy and qualifying as a candidate, nomination papers[5] are issued by the Secretary of State. Signatures[6] of registered voters are then gathered on the nomination papers. The number of signatures required are determined by the office sought. For example, governor requires one thousand certified signatures; Lt. Governor requires five hundred signatures; R.I. State Representative requires fifty signatures. Endorsed party candidates have their names placed on a combined nomination paper with other party endorsed candidates. A voter signs one nomination paper for all candidates. Independent and unendorsed party candidates are denied combined nomination papers. Only one name is allowed on the nomination paper of unendorsed and independent candidates. Therefore, Plaintiffs Gill, Carlevale, Plante and Almonte were denied having their names combined on nomination papers with other candidates. For either one of the Plaintiffs to nominate one or more party endorsed candidates, just one signature is required on one combined nomination paper. For either one of the Plaintiffs to nominate himself and the other Plaintiffs, four signatures are required on four separate nomination papers.

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[4] *R.I.G.L. 17-14-4 at A74-75.*
[5] *R.I.G.L. 17-14-4 at A74-75.*
[6] *R.I.G.L. 17-14-4 at A74-75.*

Further separation and class distinction are established and maintained by the color of the nomination paper. Blue is assigned to Democrat candidates; yellow is assigned to Republican candidates; white is assigned to independent candidates. Registered voters are allowed to sign any and all nomination papers, regardless of party affiliation, offices sought, etc. However, during the signature gathering process, these colors become either an asset or a liability. For example, a registered voter may agree or refuse to sign a nomination paper solely on the basis of color. Furthermore, some registered voters believe they are limited to signing once and according to their own party affiliation. Some voters refuse to sign because their signing a nomination paper becomes a matter of record at the local board of canvassers, which violates their privacy of association. For various fears, privacy issues, association concerns, and other reasons, some voters simply refuse to sign any nomination paper.

In 1994 Plaintiff Devine declared his candidacy for Governor as a Republican. In 1992 Devine voted in the Democrat primary and immediately disaffiliated. Devine was disqualified as a Republican candidate in 1994 by the Local Board of Canvassers because the Board had Devine listed as having voted in the 1992 Democrat primary, which established his affiliation as a Democrat. The Local Board of Canvassers failed to register Devine's disaffiliation and was unable to find the disaffiliation form Devine had completed to disaffiliate. Devine appealed the local board's disqualification decision to the RI Board of Elections. Devine and a witness testified that Devine had disaffiliated immediately after voting in the Democrat primary of 1992. Nevertheless, the Board of Elections upheld the local board's decision and Devine was disqualified as a Republican candidate for governor. Consequently Devine's name did not appear on the ballot. Devine had been denied his right of association and his exercise of his political liberties. Furthermore, he was denied participation in the Republican primary and was allowed to participate only in the 1994 Democrat primary[7].

In 1994 there were two systems for determining placement[8] on the primary and general election ballots. Note that each officially recognized party primary has a separate ballot and a separate election, conducted at the same time and place. For the Democrat and Republican primary elections, the party endorsed candidate is placed in the first column. If there is only one other candidate (unendorsed) for a particular elective office, the unendorsed candidate is placed in the second column. If there are two or more unendorsed party candidates, their placement on the ballot is determined by a lottery which is conducted by the Secretary of State. Hence, the party endorsed candidate is assured of first column placement.

[7] *R.I.G.L 17-15-21 through §§ 24*
[8] *see "Candidate Lottery Lists at A38-44.*

Placement on the ballot for all others is determined by lottery[9].

Primary ballot placement for Plaintiffs Gill, Carlevale, and Plante-all unendorsed candidates was determined by lottery. This system of ballot placement denied Gill, Carlevale, and Plante and others similarly situated of a fair, politically neutral method, since they were denied access to the first column. The best chance the lottery would allow was placement in the second column. It is well documented that ballot placement significantly influences the votes received.

Plaintiff Almonte, with an independent affiliation designation, was placed on the ballot for the general election in November. Almonte's placement on the ballot was determined by lottery. Such lottery is conducted after a separate lottery was held for the Democrat and Republican party nominees (the winners of their respective party primary election) for the first and second column placement for the office Almonte was seeking. Hence Almonte was denied access to the first and second column. The best placement he could expect was the third column.

During the 1994 primary election, the Plaintiffs were denied their full participation in the election process. In Rhode Island, party primary elections are sponsored and conducted by the state and paid for by taxpayers. All officially recognized party primaries are held on the same day, at the same location, but conducted as separate elections. Consequently Plaintiffs Gill and Carlevale as unendorsed Democrat candidates were allowed to vote only in the Democrat primary election. Hence, they were denied[10] the opportunity to vote for Plaintiff Plante, an unendorsed Republican and other Republican candidates of their choice, some of who were candidates for federal office.

Likewise, Plante an unendorsed Republican could only vote in the Republican primary and was therefore denied[11] the opportunity to vote for Gill and Carlevale and other Democrat candidates of his choice, some of who were candidates for federal office.

Similarly, Plaintiff Almonte, an independent would be allowed to vote in either the Democrat or Republican primary, but not in both. Hence, to chose to vote in one would deprive Almonte of the right to vote in the other primary election. Consequently, Almonte would also be deprived[12] of an opportunity to vote for all the candidates of his choice, some of who were candidates for federal office.

These primary voting restrictions not only prevented and deprived the Plaintiffs as voters from voting for all the candidates of their choice but also

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[9] *R.I.G.L 17-15-8* at A78.
[10] *R.I.G.L. 17-15-21 through §§24* at A83
[11] *R.I.G.L. 17-15-21 through §§24* at A83
[12] *R.I.G.L. 17-15-21 through §§24* at A83

prevented other voters from voting for all the Plaintiffs of their choice. For example, voters determined to vote for Gill or Carlevale voted in the Democrat primary would be deprived of voting for Plante also their preferred candidate but whose name appears on the ballot in the Republican primary. Likewise, voters determined to vote for Plante voted in the Republican primary would be deprived of voting for Gill or Carlevale also their preferred candidate whose names appear on the ballot in the Democrat primary.

Furthermore, these primary voting restrictions are found so restrictive by so many voters that they simply do not participate in either party primary. In 1994 party primary-elections, approximately 16% of registered voters voted in the Democrat primary election and approximately 7% of registered voters voted in the Republican primary elections, representing 23%[13] of the total number of registered voters. Less than 10% of registered voters participated in the 1996 primary election.

Consequently, the Plaintiffs were deprived the votes of a vast majority of registered voters, who had they chosen to vote in one of these party primary elections may have voted for one or more of the Plaintiffs. Nevertheless, had these non-voters participated in the primary election of 1994, they would have been limited to voting in either the Democrat or Republican primary. Consequently, they would have been unable to vote for all the candidates of their choice. And since the candidates for federal office are on one of the party primary ballots, these voter would have been deprived of voting for all federal offices of their choice.

On December 21, 1994 the Plaintiffs filed a motion for a preliminary injunction asking the court to enjoin the State from swearing in all candidates elected in the 1994 general election under unconstitutional laws. The court denied this motion on December 30, 1994.

On February 28, 1996 a non-jury trial was held for Gill vs. State of RI. The Plaintiffs cited over 150 different laws which the Plaintiffs maintain impair, violate and deny one of more of their civil rights and political liberties. Because the court and the Defendants complained of the magnitude and scope of the Plaintiffs compliant, in an effort to be conciliatory and to expedite the hearings, the Plaintiffs agreed to focus on seven representative laws on which the court would rule. The Plaintiffs did not give up their right to argue all 150 laws but simply agreed to take a more expeditious and economical approach. Plaintiff Almonte reaffirmed and maintained his objection to this paring down. Nevertheless, the case proceeded with a reduced focus. The trial continued with limited focus on the following laws:

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[13] *figures obtained from R.I. Board of Elections* at A45-47.

R.I.G.L 17-8-1 Local Canvassing Authorities, Appointment of bipartisan authority;

R.I.G.L 17-8-1 (2) Local Canvassing Authorities, Local Boards - powers and duties;

R.I.G.L 17-14-4 Nomination of Party and Independent Candidates, Preparation of nomination papers for candidates - Combination of endorsed candidates - Furnishing of nomination papers to candidates;

R.I.G.L 17-15-1 et. seq., Primary Elections;

R.I.G.L 17-15-8, Primary Elections, Listing of candidates on ballots and ballot labels;

R.I.G.L 17-25-20, Campaign Contributions - Expenditures Reporting, Eligibility criteria for
matching public funds;

R.I.G.L 17-1-2 (f)., General Provisions, Definitions - "Political Party" or "Party."

The Plaintiffs argued that this representative sampling of the Rhode Island election laws clearly demonstrated the prejudice, impairment, violation and denial of one or more of Plaintiffs civil rights and political liberties in such areas as right to privacy, freedom of association, privacy of association, due process, and equal protection. The Rhode Island election laws impair, violate or deny certain civil rights and political liberties of citizens, voters and candidates by creating different classes of people and treating them differently or by imposing different requirements, etc. The Rhode Island election laws and the Courts below argue that "the recognized parties enjoy widespread public support" and thus are justified in creating and administering to a system which is not politically neutral. The level of actual participation in the part-primaries does not support this claim of wide-spread support.

Furthermore, following facts obtained from the RI Board of Elections in 1996 pertaining to political affiliations more accurately represents the nature of public support of the officially- recognized political parties in Rhode Island: These percentages clearly show that no officially recognized party enjoys "widespread" or majority support: 29% Democratic affiliation; 11% Republican affiliation. In fact, if one were to combine the affiliations of these three officially recognized parties in RI, the total represents minority support or 39% of registered voters. [NOTE: Robert J, Healey, Jr.-Cool Moose candidate for governor-received 11% of the vote in the 1994 general election, thereby satisfying the 5% required to establish an officially recognized political party.]

Notwithstanding these percentages, the Rhode Island election laws treat the minority of voters who are affiliated with the officially-recognized parties in RI as the majority. Conversely, the Rhode Island election laws

treat the majority of voters-unaffiliated as the minority. This denial of facts and misapplication of majority and minority designation is apparent throughout the policies and practices mandated by the Rhode Island election laws. As a consequence, unaffiliated voters have no representation on local canvassing authorities (or the State Board of Elections). These boards are comprised of only voters with Democrat or Republican affiliation. No member has an independent or unaffiliated designation.

Likewise, appointments to other state and local boards, commissions, authorities, committees and offices are made on the basis of party affiliation. Hence, only citizens affiliated with the Democrat or Republican parties shall serve. Unaffiliated voters are denied such appointments and the right to serve the public because of their political affiliation or lack thereof.

In sum, in a trial before Justice Francis J. Boyle, the Plaintiffs attempted to illustrate how the Rhode Island election laws, discriminate and impair and deny them and others similarly situated of their civil rights and political liberties. Boyle at times seems casual-minded about many of the Plaintiffs issues and concerns. Boyle often argues the case on behalf of the Defendants. Boyle is often argumentative when the Plaintiffs attempt to argue their side. Defendants fail to argue their side of the case or in any way show how the Plaintiffs arguments are faulty. The State fails to articulate or demonstrate state interest or to offer any compelling reason why it may discriminate impair violate or deny the Plaintiffs of their civil rights and political liberties.

In June 1996 Plaintiffs Gill, Carlevale, Plante and Almonte filed their declaration of candidacy papers for the upcoming 1996 primary and general elections. Gill declared as a Democrat; Carlevale declared as a Cool Moose; Plante declared as a Republican; Almonte declared as an independent. Since none of the issues or concern of the Plaintiffs have yet been resolved, the Plaintiffs anticipated that their civil rights and political liberties would continue to be impaired and denied by the Rhode Island election laws and would suffer further discrimination. *[see table at A111]*

However the conditions in fact have worsened because there is now a third officially recognized political party (Cool Moose) in Rhode Island. Since there was no Cool Moose Party primary where Carlevale is a registered voter, Carlevale as a Cool Moose candidate was completely denied participation in the 1996 Democrat or Republican primary; and thereby Carlevale was denied to vote for the candidates of his choice for federal, state and local offices.

On July 12, 1996 Judgment for Defendants, against Plaintiffs issued.

The Petitioners have a wide range of experience in qualifying to run for public office. See table above. They have an informed first-hand

knowledge and experience of the application of the election laws and how the election laws have violated their political liberties and civil rights.

Issues with the Court's opinion

The D. Court opinion and the reasons underlying it clearly demonstrated to the Plaintiffs that the Court has not fully appreciated and understood the Plaintiffs' standing in this matter as citizens, voters and candidates. Because of this failing, large classes of citizens have been omitted from the court's consideration because the court narrowly defined how it chose to view this case and those affected by the Rhode Island election laws. Hence, an indiscriminate disenfranchisement of voters' political liberties is the result.

The court further characterizes the Plaintiffs case as a "blunderbuss constitutional challenge to the election laws." Where in fact, the Plaintiffs carefully reviewed the Rhode Island election laws and determined that there were approximately 155 specific laws which discriminate against, impair, violate, or deny the Plaintiffs and others similarly situated of their political liberties and civil rights. Because of the court's casual approach, the Plaintiffs' constitutional concerns were inadequately addressed or ignored by the court.

Even though four of the five Plaintiffs were to be in the primary elections as major-party candidates (two Democrats and two Republicans) the Court claimed that the Plaintiffs "have offered no evidence, nor is their any reason to believe, that minority parties, nor independent voters or candidates have been harmed by or are at risk because of these bi-partisan administrative bodies[14]" to support their claims. Contrary to the Court's assessment, the Plaintiffs offered and attempted to offer to the court substantial amounts of evidence. Further in this regard, the court rejected the Plaintiffs witness list as a "whose who" list and threatened to sanction[15] the Plaintiffs.

Because of the Court's hostile attitude the Plaintiffs were intimidated by the threats of sanctions, their right to bring expert testimony on their behalf was denied.

The D. Court has "eschewed a strict scrutiny standard in favor of a flexible standard[16]". The Plaintiffs maintain that the Court has erred and that a strict scrutiny standard should have been applied. "Under this test for determining if there has been a denial of equal protection, burden is on government to establish necessity of the statutory classification[17]."

"Measure which is found to affect adversely a fundamental right will be

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[14] *page 8 D.C.'s Opinion at A6.*

[15] *Transcript Page 20, Court Order For Cost 7-12-96 at A16.*

[16] *page 5, D.C. Opinion* at A4

[17] *Poulos v. McMahan, 250 Ga. 354, 297 S.E.2d 451, 454.*

subject to "strict scrutiny" test which requires state to establish that it has compelling interest justifying the law and that distinctions created by law are necessary to further some governmental purpose[18]. "

The D. Court asserts[19] that certain provisions of the Rhode Island Election Laws are "not facially discriminatory," when in fact by any reasonable standard applied by common men, these provisions would certainly be regarded as facially discriminatory and discriminating in practice as well. Plaintiffs maintain that when one category of non-state-established party candidates are required to "meet additional requirements," to qualify for public funds, the law is facially discriminatory. An example of this can be found in R.I.G.L. 17-25 *-20 (6)*, the provision is certainly facially discriminatory. Ironically, the Judge himself questioned the Defendants as to just how easily any candidate could actually achieve these additional requirements in fund raising. And the Judge parenthetically commented that it was not very likely that anyone could satisfy these requirements. Defendant's attorney agreed.[20]

In the D. Court decision[21] to justify the State's use of Combined Nomination Papers, D.C.J. Boyle compares apples with oranges. The Plaintiffs did not complain that a showing of modicum support to get one's name on the ballot is invidious discrimination in itself. What the Plaintiffs[22] did complain of as invidious discrimination was that there is no compelling state's interest for the State to support and give a preference to party "committees" endorsed candidates over a party's other candidates, who are vying for the same offices. The State imposes election laws that place a unequal burden on the committees' unendorsed candidates, than on those the committees' endorses. It is not the State's government prerogative to decide which party candidates ought to bear a greater party ballot access burden, especially since the "party" endorsed candidate is the product of all party members, who vote at the party's primary election.

In Rhode Island, a committees' endorsed candidates are not automatically placed on the ballot. They also must show a modicum of support by having nomination papers signed by a number of qualified registered voters. The number of signatures required[23], depends on the office the candidate is seeking; however, a committees' endorsed candidate gets to have his

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[18] *In re Valenti, 2 Dist., 178 C.A.3d 470, 224 Cal.Rptr. 10, 12, 112 S.C. 2063 5&8*

[19] *page, 10 D.C. Opinion at A7.*

[20] *page, 115 Court's transcript of 2-28-96 at A34, lines 9 through 19.*

[21] *pages, 11 &12, D. Court's Opinion* at A8.

[22] *four of the five Plaintiffs appeared on the ballot as either Democrats of Republicans, they were not independent candidates, nor were they members of a so-called independent party*

[23] *see R.I.G.L., 17-14-7 at A74a,b.*

nomination papers combined[24] with as many as eight other of the committees' endorsed candidates. This is not a provision, one might not object to if he found it in bylaws of a private association, but such a discriminatory provision is invidious discrimination when found in public law.

Because the D. Court incorrectly found no invidious discrimination in the Plaintiffs' 1994 matter, whose decision was rendered after the Rhode Island's 1996 electoral process was well underway, the Plaintiffs were once again injured by the invidious political bias built into the Rhode Island Election Laws, which mandates an unreasonableness of the holiday time frame and the limited amount of time (8 days) built into Rhode Island's 1996 gathering signature nomination papers. In 1996 the Plaintiffs had to pick up their nomination papers at the Board of Elections in Providence, collect the required number of nomination signatures, have up to 200 nomination papers signed by the candidate and signature-gatherer who may have collected them, have the nomination papers certified by a notary public, and hand-deliver the signed nomination papers to 39 cities or towns' Local Board of Canvassers for certification, all this in an eight day period, which included the 4th of July holiday, the week-end of July 4th, and the traditional first two weeks of July vacation period when friends and voters are away, collect signatures in high volume pedestrian areas such as super-markets and holiday celebrations where much time is wasted soliciting signatures from numerous out-of-town vacationers who cannot sign nomination paper, all this in the high summer heat of July when many people do not want to stop to listen to a candidate, nor sign his papers. [Note: R.I. Election Laws 17-12.1-4 allow Presidential candidates 81 days to collect 1,000 signatures for the 1996 primary elections.]

Rhode Island General Laws requiring candidate's nomination papers be filed no later than 60 days before the primary elections assures that the signature gathering period will fall into the first week of July[25], no later than July 6th. In 1994 the official date to pick up nomination papers[26] was Thursday, July 6th and the official date to file them was Friday, July 15th. Gill running for governor had to collect 1,000 qualified signatures in the nine day time period. To collect 1,000 qualified signatures Gill had to collect over 1,500 signatures to provide a cushion in likely event the Local Boards of Canvassers rejected large numbers of signatures for minor infractions, a prejudice commonly associated with the bi-partisan make-up of the local Boards of Canvassers.

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[24] *see R.I.G.L., 17-14-7 at A74a,b.*
[25] *see R.I.G.L., 17-14-12 at A74c,d.*
[26] *see 1994 Rhode Island Election Calendar* at A57.

Throughout this matter the D. Court demonstrated a preoccupation with the establishment and protection of the rights of the state-established political parties. Consequently the D. Court failed to understand the important distinction between the State's regulation of the electoral process and that of the State serving as an agent to state-established political parties. Such misunderstandings and blear-mindedness has resulted in the D. Court making a political decision based on the dubious rights of private political associations, rather than a judicial decision based on the Constitutional rights of the voters, candidates and citizens.

The matter was further compounded by the D. Court's treatment of the Plaintiffs, who are pro se litigants. The D. Court has taken advantage of the Plaintiffs' inexperience and has further beguile the Plaintiffs with sanctions and threats of sanctions. Throughout the proceeding, the D. Court maintained a hostile attitude toward the Plaintiffs. The D. Court has been argumentative with the Plaintiffs, while it has argued on behalf of the Defendants; it has often demanded that the Plaintiffs perform as seasoned attorneys and has held the Plaintiffs to the same strict standards it might hold for members of the bar. These behaviors represent a court's bias against the Plaintiffs. Because of this strong bias, the Plaintiffs on several occasions asked D.C.J. Boyle to recuse himself[27] Recusal requests were denied.

The Plaintiffs have demanded a jury trial on all matters triable by jury. To date, the Courts have neither addressed, denied, nor granted the Plaintiffs' demand for a jury trial on questions of facts. Nevertheless, the Court acknowledged[28] that the Plaintiffs' Constitutional rights have been violated. However, the D. Court, did not consider the political liberties of all of Rhode Island's citizen's to justify his opinion that the violation of the Plaintiffs' rights was justified "because the injury to Plaintiff's First and Fourteenth Amendment rights are not serious."

The Court's acknowledged Constitutional injury to the Plaintiffs' rights is magnified by lack of a full and speedy and timely trial. This case was filed in June 1994, prior to the start of Rhode Island's electoral process. From past experience with the unconstitutional nature of the election laws, the Plaintiffs sought to prevent injury from occurring to themselves and all others similarly situated before the 1994 parties' primaries process and general elections were held. Rhode Island's 1996 primary and general elections, came and passed without the D. Court intervention to prevent

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[27] *July 25, 1994 Court Transcript, pages 2 at A23, 4 at A23, 6 A24, 68 at A25, 103 at A26, 108 at A29, 109 at A30; Motions: 7-25-94 at A19a; Court Opinion for sanction 1-18-95 at A16; Order granting Defendants seeking fees from Plaintiffs 2-17-95 at A19; Mandamus 5/30/96 at A19.*

[28] *page 16, Judge Boyle's opinion* at A11.

injury. The D. Court did not issue a decision on the Plaintiffs' complaint until a month after Rhode Island's 1996 electoral process was underway.

In 1996 three of the five Plaintiffs' were candidates (Gill, Democrat candidate for U.S. Senate; Plante, Republican candidate for Rhode Island's 2nd U.S. Congressional seat and Carlevale, Cool Moose Candidate for State Senate) and the citizens of Rhode Island were once again faced with 0the unconstitutional hurdles of the Rhode Island Election Laws. The District Court did not act in a timely manner despite the importance of the nature of this case and the repeated demands[29] by the Plaintiffs for a speedy trial, the court has failed in a duty to act expediently and to prevent injury from occurring and recurring.

On August 9, 1996 the Plaintiffs Gil, Carlevale, Plante filed a Notice of Appeal regarding Judge Boyle's decision of 7/12/96 in CA 94-0331-B. The record was sent to the First Circuit Court, August 13, 1996. The record on appeal was filed on September 10, 1996. Case No. 96-1958. On February 6, 1997 a Judgment was entered by the First Circuit: The Per Curiam Judgment affirmed the judgment of the District Court. This First Circuit's judgment was made without the benefit of oral arguments by Judges Selya, Cyr and Boudin, Circuit Judges for the First Circuit and was not accompanied by a written opinion.

On February 16, 1997 the Plaintiffs filed a Motion for Oral Arguments and Reconsideration asking the First Circuit to hear and reconsider its decision to allow oral arguments, and further seeking publication of the First Circuit's opinion. The Plaintiffs cited the court's duty to have oral arguments in matters when the court deems that a pro se's brief didn't have a cogent argument supported by legal authority and to state clearly in writing the reasons for the court's opinion. On March 6, 1997 the First Circuit entered it's denial of this motion. Court's mandate was issued March 14, 1997.

REASONS RELIED ON FOR ALLOWANCE OF A WRIT

The Court of Appeals Decision, is inconsistent and in conflict with the due consideration given by prior decisions of this court concerning new and unheard important questions of state and federal law involving state's election laws, which have an immense negative impact on all of the people's federal and state Constitutional guarantees of the freedom of political and civil liberties.

A writ of certiorari should be granted in this case because this is the first case of this sort. A case, which challenged state election laws violating the political liberties and civil rights of the individual, the voter and certain candidates. Laws requiring an individual to register to vote, by political party affiliation or the lack thereof. To be required to vote by political affiliation infringes on the individual's right to the privacy of his own political beliefs, political expression and associations. The right to know a person's political association and political beliefs, may be a private right of a

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[29] *Motion 11-9-94, 4-8-96 at A19d; Hearing 2-14-96 (see docket).*

political party when recruiting members, but when a person registers to vote, the state has no compelling reason or interest by requiring a voter to surrender his right of political expression, association, privacy to publicly declare his political associations, principles and beliefs. When an individual is required, by law, to publicly declare his political associations, principles and beliefs, he is laid open to the unequal protection of the bias and discriminatory practices of the election laws, as well as to the political bias, prejudices, scorn and ridicule of the public and the media. Gerrymandering of voting districts is assisted by election laws requirement, mandating voters to register by political affiliation.

The issues in this case involves the weight and significance of the political liberties and civil rights of the "individual" verses the weight and significance of the political liberties and civil rights of a state-established political party system. The state election laws have been enacted by the members of a "two-party" system, which have and will in the foreseeable future, monopolize 100% of Rhode Island's elective offices. Rhode Island has a state-established "two-party" political system, whose collective membership account for only 38% of the registered voters; yet, the parties' members hold 100% of Rhode Island's state and federal offices. The Parties have been able to enact election laws, in the guise of a state's interest, which have been used to systematically and deliberately establish superior collective political liberties and civil rights for their members, their endorsed candidates and their party, at the disadvantage of the 62% of the state's registered voters and aspiring political parties, who are registered as "unaffiliated" or "independent." Rhode Island's state-establish parties have used the election laws to stifle the development of opposing political views, principles and beliefs.

While there are numerous election law cases (too numerous to cite) in which a multitude of combinations of established parties, independent parties, candidates, election laws, states, cities towns, board of canvassers, etc., have been involved in election law litigation, this is the first case of this sort before this Court which challenges the right of a state, by law, to establish, endorse, support (financially), maintain and protect private political parties and their members' political liberties, civil rights and interest at the expense of the political liberties and civil rights of the state's majority citizens, voters (62% of the State's registered voters), independent candidates and candidates who may be the Party "unendorsed" or may be are registered as unaffiliated or independent voter.

The Petitioners, in this instant action, came to a very different interpretation and conclusion in their reading of the Federalist Papers No. 10 (Madison) than that of the U.S. Supreme Court in *Storer v. Brown at 415 U.S. 727* and the U.S. Supreme Court citing of *Storer* in *Timmons v. New*

Party in which the Courts stated and quoted "A State need not take the course California has, but California apparently believes with the Founding Fathers that splintered parties and unrestrained factionalism may do significant damage to the fabric of government." These words cannot be found in the Federalist Papers #10, nor do these words accurately paraphrase what Madison had written. Madison did not make a distinction between major and splinter parties, neither did he single out splintered parties, nor did he say, "...that splintered and unrestrained factionalism may do significant damage to the fabric of government." What he did say about "faction" was *"By faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse or passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregated interest of the community".*

In Rhode Island the imbedded contemporary distinctions between major, minor and independent parties, is a byproduct derived from the effects of the State having established and protecting certain political parties. The political philosophies and organization of majority, minority or independent parties, may be a legitimate interest of the individual, but political parties are not a legitimate state interest.

When this case was before the District Court, at no time or place, in pleadings, hearings or trial, did the defendant State or the other Defendants establish a "state's interest" justifying the discriminatory nature of the election laws. The first and only articulation of a "state's interest" can be found in the opinion of the District Court. In *Coleman v .Coleman, 32 Ohio St.2d 155, 291 N.E.2d 530, 534* the Court stated that a state's compelling interest is one which the state is forced or obligated to protect; however, it was D.C. Judge Francis Boyle, a self-proclaimed staunch Democrat (see transcripts of case), who established and protected the compelling state's interest and not the State Defendants.

Since the matter before the D. Court involved the denial of the protection of the Plaintiffs' political liberties and other fundamental civil rights the burden was on the government to establish the necessity of the statutory classification *see Poulos v. McMahan, 250 Ga. 354, 297 S.E.2d. 451, 454.* The Court should have applied a strict scrutiny standard requiring the State to establish it had a compelling interest justifying the laws and the distinctions created by the laws and they were necessary to further some governmental purpose *see In re Valenti, 2 Dist., 178 C.A.3d 470, 224 CalRptr. 10,*

The Appellees find the D.C. Court's establishment and protection of the compelling state interest to be inappropriate use of judicial powers. Not withstanding the State did not show its compelling interest, the D.C. Court

did find the election laws had violated the Plaintiffs' 1st and 14th Amendment rights[30], but a minor burden not rising to the need of a strict scrutiny standard.

Given matters of state's interest this is an especially first of its kind and meaningful case, because what is at stake is the continued erosion of the very well-spring of the American political system: A political system, our founding fathers intended would be rooted in and nourished by the compelling interest of the individual and not the compelling interest of the state or political factions. A political system where the equality of every individuals political liberties and civil rights is the quintessence of the republican form of government. The American republican political system is one in which only the people and their interest should be woven into the fabric of government. A truly American republican fabric of government that not even the Church's political interest was allowed to be woven into its fabric. This case challenges the conversely contemporary political notion that the state's compelling interest is rooted in and nourished, by weaving political parties into the fabric of government with a state-established "two party" political faction, with its special-interest acting as the catalyst to give the parties a broad and concentrated political power base. In this action the Petitioners have sought to use the Courts as the means of redress to change politically-biased election laws into politically-neutral election laws.

This is not an action brought by "sore-losers," but by five individuals with opposing, but compatible political beliefs, who filed this action, not after an election, but prior to the start of the Rhode Island 1994 electoral process. On June 22, 1994, after waiting two years for the Rhode Island General Assembly to amend the election laws, in a fashion that would have preserved the full political and civil liberties of the Petitioners and all of Rhode Island's citizens, the Petitioners filed this action. This is not a case of winning or losing elections; this is a case to determine whether all citizens, voters and candidates enjoy the same and equal protection of their political liberties and civil rights, or if in some way, major political associations enjoy greater political liberties and civil rights. Until now, this is a Constitutional question that has evaded judicial review.

This is an action, in which the State did not articulate its compelling interest; however, this is an action, which the state's compelling-interest in the rights vested in the individual, must be weighed against the state's compelling-interest in the postulated rights of major political factions. As Madison described "factions"[31] in the *Federalist Paper No. 10:*

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[30] *Page 16 District Court's Opinion at A11.*

[31] The Petitioners disagree with the Courts' construction and use of Madison's definition of a "faction," in the *Federalist Papers No. 10,* as cited by both the U.S. Supreme Court and the California Court in *Storer v. Brown 415*

> "By faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse or passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregated interest of the community."

The Petitioners were compelled, by financial considerations, to bring this action into the Courts "pro se." It has been neither the Petitioners' desire nor, any false impressions about their ability to personally litigate such a complex issue through the maze of judicial procedures which has motivated. It is out of civil duty that the Petitioners has engaged in this matter. In this regard the Plaintiffs agree with Martin Luther King, Jr. that it is one's moral and civic responsibility to fight against unjust laws.[32]

The Petitioners have found that the District Courts and the Circuit Court have not treated their pro se appearance with the seriousness and respect due to them and to the subject matter, in doing so the Courts have denied the Petitioners of their right of due process and the equal protection of the law, e.g.,

1. On June 22, 1994 the Petitioners filed a Temporary Restraining Order asking the Court to restrain the start of Rhode Island's electoral process which was to begin on June 27, 1994, the Temporary Restraining Order was not heard by the Court until July 25, 1994.
2. The District Court and the Circuit Court did not address the Petitioners' many demands, for a jury trial..
3. Even though the Petitioners Motion for a Temporary Restraining Order was heard, the Petitioners' demands to have the Motions for a Preliminary and Permanent Restraining Orders were not docketed for hearing, nor were they heard.
4. The matter before the District Court dealt with the Constitutionality of election laws, yet, it took the District Court over two years and two election cycles hear and decide the matter.
5. On June 19, 1996 the Petitioners filed a Temporary Restraining Order along with a Preliminary and Permanent Restraining Order seeking to enjoin the 1996 Rhode Island electoral process until the District Court had reached a decision on the case. These motions were not docketed for hearing, nor were they heard by the Court.
6. Inasmuch as the issues were directed to the attention of the Circuit Court, in the Petitioners' appeal to the Circuit Court, the Court failed to address

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US 736 and the U.S. Supreme Court in *Timmons v. New Party 65 LW 4278* (not reported this date). In the *Federalist Papers #10,* Madison defined "faction" as "...amounting to the majority or minority of the whole...." not as "...splintered parties and unrestrained factionalism..." as reported in *Storer* and in *Timmons.*

[32] *Letter from Birmingham Jail (M.L. King, Jr., 1963)*

these matters. The Court has "eschewed a strict scrutiny standard in favor of a flexible standard[33]." The Plaintiffs maintain that the Court has erred and that a strict scrutiny standard should have been applied. "Under this test for determining if there has been a denial of equal protection, burden is on government to establish necessity of the statutory classification[34]." Measure which is found to affect adversely a fundamental right will be subject to "strict scrutiny" test which requires state to establish that it has compelling interest justifying the law and that distinctions created by law are necessary to further some governmental purpose[35].

7. Furthermore, it is the "duty of the court to declare void any statute violating constitution is not limited to direct violations but extends to any evasion or indirection which may be practiced by the legislature[36]."

8. Court's use of rational basis incorrect. In its decision, the Court has applied a "rational basis standard." This is a misapplication because under the rational basis standard, "the challenged laws bears a reasonable relationship to the attainment of some legitimate governmental objective." Furthermore, this test does not apply if the statute is unconstitutional. The Plaintiffs maintain that there is no legitimate governmental purpose in violating the (many) constitutional rights of such large numbers of citizens, voters and candidates. The State did not offer any legitimate governmental objective or compelling state interest during the proceedings by which the D. Court could apply such a standard. Laws which clearly violate constitutional rights without compelling purpose are to be found unconstitutional.

9. Rhode Island election laws are facially discriminatory. The D. Court asserts that certain provisions of the Rhode Island election laws are "not facially discriminatory," when in fact by any reasonable standard applied by common men, these provisions would certainly be regarded as facially discriminatory and discriminating in practice as well. Plaintiffs maintain that when one class is required to "meet additional requirements, R.I.G.L 17-25-20 (6)" for public funds, the provision is certainly facially discriminatory. Ironically, the Judge himself questioned the Defendants as to how easily any candidate could actually achieve these additional requirements in fund raising. And the Judge parenthetically commented that it was not very likely that anyone could satisfy these requirements.

10. Modicum of support a show of support is required and ignored by the Rhode Island election laws. The Court maintains that the state has a strong

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[33] *page 5 D.C. Opinion* at A4.

[34] *Poulos v. McMahan, 250 Ga. 354, 297 S.E.2d 451, 454.*

[35] *In re Valenti, 2 Dist., 178 C.A.3d 470, 224 Cal.Rptr. 10, 12, 112 S.C. 2063 5&8*

[36] *Robinson v. Nielson*

state interest "in requiring some preliminary showing of a modicum of support before placing a candidate's name on the ballot." in the form of gathering signatures by the candidate. This notion flies in the face of the fact that a political party chairman has the right under the Rhode Island election laws to place a name of a candidate on the ballot without a comparable gathering of signatures. The Plaintiffs maintain that unless this test is applied equally (equal protection), it has no basis and there is no strong state interest.

11. Law result in a wholesale disenfranchisement of voters. The Court states that the Plaintiffs "offered absolutely no evidence that such provisions have any impact on the right to vote, or the right to have one's votes tallied." In fact, the Plaintiffs offered many arguments and facts documenting how Democrat, Republican, and Unaffiliated voters are disenfranchised by 50% and how Cool Moose voters are completely (100%) disenfranchised. (Rhode Island's third officially qualified political party is the Cool Moose Party.) With this level of disenfranchisement in mind, it is not surprising to the Plaintiffs that approximately 10% of registered voters actually participated in the 1996 Party Primaries. One might reasonably conclude that a substantial number of registered voters know they are disenfranchised, feel disenfranchised, and believe that their votes are not tallied as they wish them to be. Consequently, they simply do not bother to participate even to the extend permitted by the Rhode Island election laws.

12. Court's preoccupied with establishment of political parties. The Court's preoccupation and concern for established political parties and the state's right to regulate the electoral process is another example of the Court's lack of understanding of this case. The Plaintiffs concur that the state has a right to regulate the electoral process. The Plaintiffs argue further that there is no valid or compelling state interest in the state becoming an agent of officially recognized political parties by creating and enforcing laws which advantage official political parties and their endorsed candidates, paying for party primary elections, etc. The Court fails to understand the important distinction between regulation of the electoral process and serving as an agent to established political parties.

13. Political Decision vs. Judicial Decision. The Plaintiffs believe that the Court has made a political decision rather than a judicial decision. A judicious court would have easily recognized how certain particular laws clearly violate the Constitutional rights and political liberties identified by the Plaintiffs. Furthermore, a judicious court would have clearly found these particular laws to be unconstitutional. The Judge was oftentimes boastful of his loyal affiliation[37] to the Democrat Party and his concern for how the parties might be disaffected if the Plaintiffs prevailed. With such bias in

[37] *D.C. Transcript, page 103 through 111 7/26/94* at A26-32.

mind, the Plaintiffs believe that the Court recognizes the great impact such a judicious decision might have upon past, present and future elections as well as upon the laws which have been enacted under unconstitutional laws. Rather than correct the injustices of the Rhode Island election laws which are apparent, the Court made a political decision rather than a judicial decision.

14. The Court manipulated Plaintiffs with sanctions and threats of sanctions. The Plaintiffs are pro se litigants and as such are not familiar with all the technical aspects of bringing forth such an important constitutional challenge. Nor are they cognizant of the many nuances of their rights and privileges before the court. This inexperience has hampered Plaintiffs representation of this case. But more importantly, the Court has taken advantage of this inexperience by rushing the Plaintiffs through proceedings which certainly required the Plaintiffs more time to process and understand; by making threats to sanction the Plaintiffs; and by actual sanction of Plaintiffs. The Plaintiffs believe that such treatment of citizens seeking redress is contrary to the purposes of the American judicial system. The Plaintiffs purposes are simply to correct the fundamental wrongs of the Rhode Island election laws. The Court has thwarted the Plaintiffs effort throughout the proceedings. This was so obvious that Attorneys for the Defense stated that the Plaintiffs "did not realize they had a trial."

15. Court is hostile toward Plaintiffs. Throughout the proceedings of this case, the Court has maintained a hostile attitude toward the Plaintiffs. The Court has been argumentative; it has argued on behalf of the Defendants; it has often demanded that the Plaintiffs perform as seasoned attorneys and it has held the Plaintiffs to the same strict performance standards it might hold for members of the bar. The Plaintiffs believe that such hostility is merely the "tip of the iceberg" of the Court's bias against the Plaintiffs.

16. Recusal Requests Denied. The Plaintiffs believe that the Judge is strongly biased. By his own admission he is a loyal and strong Democrat, an exemplary party voter. His bias had been apparent from the onset. His bias has contributed to his inability to understand the Plaintiffs claims in an unbiased manner, which is essential for a judicial decision to be made. Consequently, the Plaintiffs have made many requests that the Judge recuse himself. He has repeatedly rejected or denied Plaintiffs request for his recusal.

17. Plaintiffs were denied jury trial. The Plaintiffs recognized that only the Court may decide questions of law in constitutional matters. However, the Plaintiffs also recognize that they have been and continued to be injured by the Rhode Island election laws. Consequently, the Plaintiffs have demanded a jury trial concerning these damages. To date, the Court has neither denied nor granted the Plaintiffs a jury trial on questions of facts.

18. The Court minimized and wrongfully justifies Plaintiffs' injuries. In its decision, the Court acknowledges that the Plaintiffs constitutional rights have been violated. However, the Court makes a judgment of degree and proceeds to justify the violation of the Plaintiffs rights: "Thus, because the injury to plaintiff's First and Fourteenth Amendment rights are not serious, the State need only show that the election provision has a rational basis." The State did not show that the election provision has a rational basis. How then can the Court make a determination on matters not presented? And when such violation and injury are so widespread; and occur and reoccur; and have the potential to reoccur, if correction is not applied, the injury is certainly serious and consequently without a compelling interest by the State, the Court has a duty to declare such provisions unconstitutional.

19. Justice delayed is justice denied. This case was filed in June 1994 prior to the Party Primary Election of 1994 in order to prevent injury from occurring to the Plaintiffs and all others similarly situated. That election and the General Election of 1994 came and passed without Court intervention to prevent injury. The Party Primary Election and General Election of 1996 came and passed without Court intervention to prevent injury once again to the Plaintiffs and all others similarly situated. Because this is an election law case and because injury has a recurring nature, this case should have been given priority and heard expediently. It was not, despite the Plaintiffs demand for a speedy trial. The Plaintiffs have met their responsibility in attempting to prevent injury for occurring and recurring. The Court has failed in its duty to do so as well. The Court also failed in granting the Plaintiffs a speedy trial. Other inequalities in the election laws coupled with other state statutes provide further reason for requiring the only workable remedy: the separation of political parties and state.

To conclude,

Today, Rhode Island's election laws allow only state-established political parties and the parties' endorsed candidates the full and free enjoyment of their political liberties and civil rights to access Rhode Island's electoral process. Except in the above captioned matter, the Plaintiffs know of no other case in which the constitutionality of a state's right and interest to establish, maintain, protect, endorse and support private political parties were challenged. The Plaintiffs know of no constitutional article or amendment, in either the R.I. Constitution or the U.S. Constitution, guaranteeing political liberties to private associations. To the contrary, these constitutions were carefully constructed only to guarantee the political liberties of the people. The Plaintiffs argue that while Constitutional rights attach to all individuals in a private association, such as political parties; nevertheless, the rights of the individual members do not collectively attach to private associations.

State election laws, which discriminate against all non-state-established political parties, voters, and candidates, while benefiting state-established political parties and their endorsed candidates, is the political mechanism, which has been used by the Democratic and Republican Parties to entrenched themselves as America's unique "two-party political monopoly." This two-party system controls who can and who cannot exercise their full political liberties. Only a blear-witted person would believe that public elections are such, that all qualified voters can, without state-established political discrimination, freely participate in. The Plaintiffs wouldn't take this view of the party primaries if they were paid for by private funds and administered by the party membership.

Article XIV, Section 2, of the U.S. Constitutions clearly states "But when the right to vote at any election for President and Vice President of the United States, Representatives in Congress, the Executive and judicial officers of any state ... or in anyway abridged ... the basis for representation shall be reduced...." Clearly, the U.S. Constitution , also, guarantees the right to vote in any public election. Since the Plaintiffs ran under different party labels, as recently as the 1996 R.I. General Elections, the Plaintiffs and many other Rhode Island voters were denied their right to vote for Congressional candidates of their choice.

The Rhode Island election laws have wrongfully created at least six classes of political citizenship with different and unequal political rights for each class. Two classes created and regulated by the Rhode Island election laws are, one set of political rights, of unequal weight, for the voters of state-established political parties and their endorsed candidates and another set for the independent, unendorsed candidate and the independent and unaffiliated voters. Two more classes of political citizenship, of unequal weight, created and regulated by the Rhode Island election laws also give different sets of political rights to state-established political parties, than that of the political rights of so-called independent political parties. The Rhode Island election laws also create and regulate different sets of political rights for the state-established political parties' endorsed candidates than the political rights of the state-established political parties' unendorsed candidates. Consequently, only a few of the Parties' endorsed individuals are the ultimate benefactors of the Rhode Island election laws, while all others are denied the law's equal protection. The R.I. and U.S. Constitutional guarantees for the independence of the individual's political liberties are usurped by the Rhode Island election laws, and transferred to political parties, in the guise of a state's compelling interest in a state-established "two-party system." The Plaintiffs argue that the political liberties of the individual is the paramount compelling state's interest, and

not the suppositions political liberties of a state-established "two party" political system.

CONCLUSION

WHEREFORE, Petitioners respectfully pray that the Petition for Writ of Certiorari be granted.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, JOSEPH CARLEVALE, SR., JOSEPH F. DEVINE, ANTHONY ALMONTE, ROBERT PLANTE, et al.	:	
Plaintiffs	:	
V.	:	CA 94-0331B
STATE OF RHODE ISLAND, BARBARA LEONARD in her official capacity as SECRETARY OF STATE, the members of the GENERAL ASSEMBLY in their official capacity, BRUCE SUNDLUN in his official capacity as GOVERNOR, JOSEPH DISTEPHANO in his capacity as CHAIRMAN of the RHODE ISLAND BOARD OF ELECTIONS, GUY DUFAULT in his capacity as CHAIRMAN OF THE RHODE ISLAND STATE DEMOCRATIC COMMITTEE and JOHN HOLMES in his capacity as CHAIRMAN OF THE RHODE ISLAND REPUBLICAN STATE COMMITTEE, Defendants	:	

OPINION

FRANCIS J. BOYLE, Senior District Judge.

Plaintiffs have filed a blunderbuss constitutional challenge to the election laws of the State of Rhode Island. For the following reasons the laws are found to be constitutional.

I. BACKGROUND:

Plaintiffs ran for various public offices in the 1992 Rhode Island general election as "independent" or ""unaffiliated" candidates under a collective platform they dubbed Reform '92. Joseph Devine ran for Governor, Anthony

Almonte ran for Attorney General, Joseph Carlevale ran for Secretary of State, Robert Plante ran for Senator in the 19th District and Donald Gill ran for Mayor of West/Warwick. All lost to either Democratic or Republican candidates. Plaintiffs filed this action in June of 1994 claiming that all of the election laws of the State of Rhode Island were unconstitutional. The main contention that can be gleaned from the rambling, nearly 30 page complaint, which cites among other things George Washington's farewell address and the Federalist Papers, is that the election laws unconstitutionally discriminate against unaffiliated or ""minor-" party candidates in favor of Republican and Democratic party candidates. Shortly after the action was filed, and before the 1994 election, plaintiffs Gill, Carlevale, Devine and Plante claimed either Democratic or Republican affiliation and filed declaration papers with the Secretary of State. At the time this action was commenced, plaintiffs also filed a motion for a preliminary injunction asking that the court enjoin the 1994 Rhode Island general election. The motion was denied on July 25, 1994. In December of 1994, the plaintiffs filed another motion for a preliminary injunction asking that the court enjoin the State of Rhode Island from swearing in all political candidates who won office in the 1994 general election. This motion was also denied.

On February 28, 1996 a non-jury trial was held[1] While the original complaint cited over 150 different laws that the plaintiffs contended were unconstitutional, for purposes of the trial, plaintiffs agreed to pare that number down to seven representative laws on which the court would rule.[2] The specific laws under scrutiny are:

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[1] At the time the trial was held, there was a motion by the plaintiffs for summary judgment outstanding. Because all issues that were due to be resolved in summary judgment were to be heard at the non-jury trial, plaintiffs withdrew the motion. During the trial, however, plaintiff Almonte continued to press the court for a ruling on the motion. The court declined to hear the motion and proceeded with the trial on the merits.

[2] Plaintiff Almonte objected to this agreement stating that he believed all Rhode Island election laws were unconstitutional and should be ruled upon. The court allowed Mr. Almonte until April 19, 1996 to file memoranda of law in support of his challenge to all the laws. To date, no such memoranda have been filed. Thus, Mr. Almonte's contention is deemed moot.

R.I.G.L. ñ 17-8-1, Local Canvassing Authorities, Appointment of bipartisan authority;
R.I.G.L. section 17-8-5 (2), Local Canvassing Authorities, Local boards - powers and duties;

R.I.G.L. section 17-14-4, Nomination of Party and Independent Candidates, Preparation of nomination papers for candidates Combination of endorsed candidates - Furnishing of nomination papers to candidates;

R.I.G.L. section 17-15-1 et. seq., Primary Elections;

R.I.G.L. section 17-15-8, Primary Elections, Listing of candidates on ballot's and ballot labels;

R.I.G.L. section 17-25-20, Campaign Contributions - Expenditures Reporting, Eligibility criteria -for matching public funds;

R.I.G.L. section 17-1-2(f), General Provisions, Definitions - "Political Party" or "Party"'.

II. ANALYSIS:

"Voting is of the most fundamental significance under our constitutional structure." Burdick v. Takushi, 112 S.Ct. 2059, 2063 (1992) (quoting Ill. Bd. Of Elections v. Socialist Workers Party, 440 U.S. 173, 184, 99 S.Ct. 983, 990, 59 L.Ed.2d 230 (1979)). However, the right to vote and the right to "',associate for political purposes through the ballot'" are not absolute. Burdick, 112 S.Ct. at 2063. The United States Supreme Court has recognized that States retain the power to regulate elections. E.g., Sugerman v. Dougal, 413 U.S. 634, 647, 93 S.Ct. 2842, 2850, 37 L.Ed.2d 853 (1973); Tashjian v. Republican Party of Conn., 479 U.S. 208, 217, 107 S.Ct. 544, 550, 93 L.Ed.2d 514 (1986). The Court has specifically stated that "'as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process." Burdick, 112 S.Ct. at 2063 (quoting Storer v. Brown, 415 U.S. 724, 730, 94 S.Ct. 1274, 1279, 39 L.Ed.2d 714 (1974)). Recognizing that each provision of an election code will inevitably

affect First and Fourteenth Amendment rights, the Court has stated that the mere fact that a State election code "creates barriers tending to limit the field of candidates from which voters might choose does not of itself compel close scrutiny." Bullock v. Carter, 405 U.S. 134, 143, 92 S.Ct. 849, 856, 31 L.Ed.2d 92 (1972). Accordingly, in instances in which the constitutionality of voting regulations is called into question, the Court has eschewed a strict scrutiny standard in favor of a flexible standard'. Burdick, 112 S.Ct. at 2063.

Under this flexible approach, the rigorousness with which a court inquires into the propriety of a challenged election law is dependent upon the extent to which that law is found to burden First and Fourteenth Amendment rights. Id. Thus, when such rights are severely burdened, the regulation must be "narrowly drawn to advance a state interest of compelling importance." Id. (quoting Noramn v. Reed, 112 S.Ct. 698, 705, 116 L.Ed.2d 711 (1992). On the other hand, when a state election law imposes only reasonable, nondiscriminatory restrictions on First and Fourteenth Amendment rights, the State's regulatory interests are generally sufficient to justify the restrictions. Burdick, 112 S.Ct. at 2063-64. Thus, the constitutional claims of the plaintiffs will be examined by parsing them in light of this flexible standard.

(1.) R.I.G.L. Sections 17-8-1, 17-8-5(2), 17-1-2(f).

The constitutionality of these related provisions must be examined in conjunction. Title 17 chapter 8 of the Rhode Island General Laws is entitled Local Canvassing Authorities. Section 17-8-1 provides:

> **Appointment of bipartisan authority.** - The legislative body of each city and town shall appoint a bipartisan canvassing authority of three (3) qualified electors of the city or town, not more than two (2) of whom shall belong to the same political party and may appoint two (2) alternate members, not more than one of whom shall belong to the same political party. . . . The mayor or president of the town council shall nominate the members of the canvassing authority from lists of party voters submitted by the respective chairmen of the city or town political committee, which lists shall contain the names of five ' (5) times the number of persons to be appointed. If the legislative body shall refuse to approve the nomination of any person to the canvassing authority, the mayor or the president shall submit to the legislative body another person named on one of the lists, and so on until a person shall be appointed; provided, however, if the chairman of the city or town

> committee of a political party entitled to an appointment shall fail or refuse to submit a list as aforesaid, the mayor or the president shall nominate any party voter of the political party entitled to the appointment.

R.I.G.L. Section 17-8-1 (Michie 1994).

Section 17-8-5(2) defines the powers and duties of the local canvassing authority. It states that the board shall:

> Have and discharge all of the functions, powers, and duties of the town council concerning nominations, elections, registration of voters and canvassing rights, the preparing and correcting of voting-lists, and other matters relating thereto, which powers are transferred to the local board.

R.I.G.L. section 17-8-5 (Michie 1994). .

In addition, the election laws define political party as any political organization which at the preceding general election nominated a candidate for governor, and whose candidate for governor at the election polled at least five percent (5%) of the entire vote cast in the state for governor." R.I.G.L Section 17-1-2(f) (Michie 1994). These provisions are not discriminatory on their face. The fact is, however, that in Rhode Island, as elsewhere, the Democratic and Republican parties dominate the political scene. Thus, while in theory a party other than the Democratic and Republican party could be represented on a canvassing authority such has not been the case. This fact, however, does not necessarily mean that the provisions are unconstitutional.

The process for the appointment of canvassing authority members is facially nondiscriminatory. The statutory provisions do not specifically refer to any particular political party. What the statutes do is condition a political party's right to nominate members of the local canvassing authority upon its prior success at the polls. The United States Supreme Court has held that the practice of distinguishing between political parties based upon past electoral accomplishment is not per se invidiously discriminatory. See, e.g., American Party of Texas v. White, 415 U.S. 767, 781, 94 S.Ct. 1296, 39 L.Ed.2d 744 (1974); see also Werme v. Merrill, No. 95-1982, slip op. at 11 (1st Cir. May 23, 1996). The simple fact is that any party has the same opportunity to qualify to nominate members of that party to the board of canvassers. As the First Circuit has recently stated in a similar action, "[e]quality of

opportunity exists, and equality of opportunity not equality of outcomes - is the linchpin of what the Constitution requires in this type of situation. Werme, supra at 11.

Additionally, the provisions in question here have absolutely no direct effect on ballot access, the right to vote, or the right to have one's vote counted. See id. Local boards of canvassers perform the administrative functions of running and managing elections. Plaintiffs have offered no evidence, nor is there any reason to believe, that minority parties or independent voters or candidates have been harmed by or are at risk because of these bipartisan administrative bodies.

Since the constitutional burden imposed by these provisions is slight at best, a rational basis standard must be applied. Burdick, 112 S.Ct. At 2063. Thus, so long as the state had a rational interest in enacting the provisions, they are constitutional. In this instance, the state has an important regulatory interest in ensuring that elections are run fairly and efficiently. The provisions ensure fairness by providing for a bipartisan board. if,, on the other hand, members of the boards were selected at large, it is quite possible that the dominant party of the locality would win ail the seats on the board. Furthermore efficiency is obtained by limiting the number of members of the board.[3] It would be impractical to believe that the state could ensure that every voting party and non-affiliated voter was represented on the board. The boards would easily become too unwieldy to properly function as election machinery managers. See Pirincin v. Bd. Of Election of Cuyahoga County, 368 F.Supp. 64, 72 (N.D. Ohio 1973)." Thus, because these provisions further the State's important regulatory interest, and the constitutional burden imposed is slight, the provisions are constitutional. See also Pirincin, 368 F.Supp. at 80 (Ohio statutory scheme for selecting members of bipartisan county boards of election from the two parties which cast the highest number of votes for governor at the previous election did not violate the Constitution).

2. R.I.G.L. Sections 17-14-4, 17-1-2(f).

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[3] As one court said one or two independent voters who might be appointed could not truly represent all independent voters as "[e]ach independent voter can really only represent himself [or herself]" Pirincin, infra at 72.

Section 17-14-4 of the Rhode Island General Laws provides that "[candidates for nomination for different offices endorsed by the appropriate committee on any party shall be combined on the same nomination papers." R.I.G.L. Section 17-14-4 (Michie 1994). This provision allows a political party to combine a ""slate" of endorsed party candidates on the same nomination paper. As noted above, however, a political party is limited by definition--to those parties whose candidate for governor polled at least five percent (5%) of the vote cast for governor in the preceding election. R.I.G.L. Section 17-1-2(f). Plaintiffs contend that this provision discriminates because it effectively requires that independent and non-recognized party candidates get more signatures on their nomination papers than the Republican and Democratic slate candidates.

Once again, this Provision is not facially discriminatory. The provision does distinguish between political parties based upon past electoral accomplishment. This is not, however, per se invidiously discriminatory. See, e.g., American Party, supra at 781; Werme, supra at 11.

In addition, the assertion that Section 17-14-4 requires independent candidates and non-recognized party candidates to obtain more signatures is patently false. Section 17-14-7 provides that the nomination papers for the candidates for certain offices must be signed by a certain number of voters.[4] The number of signatures required is dependent upon the elective position. In all cases, the number of signatures required is minuscule in comparison to the eligible population. For example, one thousand (1000) signatures are required for a candidate for United States Senator or Governor of Rhode Island, whereas a town voting moderator requires ten (10) signatures. R.I.G.L. 17-14-7. The effect of Section 17-14-4 in combining the slate of a party on one nomination paper is that when a person signs the slate's nomination paper they are not endorsing one candidate but instead the entire slate. Thus, the slate must be signed by the number of voters equal to that required by the office on the slate which requires the highest number of signatures. Plaintiff's argue that the Democratic or Republican slate need

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[4] Section 17-14-7 provides for the following signature requirements for the nomination papers for the candidates for each office: United States Senator or Governor - one thousand (1000); Congressman - five hundred (500); General State offices- five hundred (500); State Senator - one hundred (100); State Representative - fifty (50); City offices - two hundred (200); Providence City offices - five hundred (500); Voting district moderator or clerk - ten (10); Other offices - fifty (50). (Nichie 1994).

only obtain one thousand (1000) signatures while a similar group of independent or non-recognized party candidates must obtain as many as four thousand five hundred (4500) different signatures. While this may in theory be true, in all practicality it is not the case.

It is true that such a group must obtain four thousand five hundred (4500) signatures, but they do not have to be four thousand five hundred (4500) different signatures. In fact, a group of independent candidates could meet the nomination requirements by obtaining only one thousand (1000) different signatures, just like the Republican or Democratic slate. This would simply require that a voter sign more than one nomination paper at the same time. This is certainly not an onerous burden. In addition, it is made even less so because the Rhode Island election laws provide that "[a) voter may sign any number of nomination papers for any office the voter may lawfully vote for at the general election.'" R.I.G.L. Section 17-14-9 (Michie 1994); see also Jenness v. Fortson, 403 U.S. 431, 438-39 (1971). In fact, it has been suggested that it may be a more onerous burden to get signatures for the endorsed slate. In such an instance, if a voter does not approve of only one person on the slate he or she may not endorse the entire slate. In effect, it requires that the candidates who otherwise would need as few as ten (10), fifty (50), one hundred (100), two hundred (200) or five hundred (500) signatures instead be endorsed by one thousand (1000) voters.

There is a strong state interest "'in requiring some preliminary showing of a modicum of support" before placing a candidates name on the ballot. Jenness, 403 U.S. at 442. Certainly, an election could not be run efficiently nor fairly if any person who felt the urge to run for political office were allowed on the ballot without first showing some support. The ballots would be crowded and confusing to say the least. See Lubin v. Panish, 415 U.S. 709, 715, 94 S.Ct. 1315, 39 L.Ed.2d 702 (1974) ("'State's interest in keeping its ballots within manageable, understandable limits is of the highest order") Bullock, 405 U.S. at 145 (State has a legitimate interest in regulating the number of candidates to "prevent clogging of its election machinery, avoid voter confusion, and assure that the winner is the choice of . . . at least a strong plurality Storer v. Brown, 415 U.S. 724, 732, 94 S.Ct. 1274, 39 L.Ed.2d 714 (1974) (quoting Bullock, supra). These provisions directly further that interest. Thus, the burden, if any, imposed by these provisions is more than outweighed by the State's interest in promoting an efficient and unprejudiced election process.

3. R. I. G. L. Section 17-15-1, et seq.

Title 17, chapter 15 of the Rhode Island General Laws regulates primary elections by political parties. Chapter 15 requires that political parties hold primary elections to select party candidates for the general election rather than hold conventions or caucuses. R.I.G.L. Section 17-15-6 (Michie 1994). Once again, however, the term political party as it is used in this chapter is limited by Section 17-1-2(f). Plaintiffs challenge chapter 15 in its entirety. It is not entirely clear from the pleadings and arguments upon what grounds the plaintiffs premise their argument. The only rational arguments that may be limned from plaintiffs case is that they feel the provisions providing for primary elections are unconstitutionally discriminatory because they: (1) do not provide for a state supported primary for minor or unrecognized political parties; and (2) do provide for state sanctioned and funded primaries for the two recognized parties. For the following reasons, title 17, chapter 15 is found to be constitutional.

> An in depth analysis of plaintiffs contentions in this instance is unnecessary as the United States Supreme Court has already addressed these very issues in American Party of Texas v. White, 415 U.S. 767 (1974). In American Party, the Court specifically addressed the question of whether a Texas election law requiring that large parties[5] hold primary elections but also mandating that smaller parties nominate by convention violated the First or Four , tenth Amendments. The Court in holding the provision valid stated: Neither can we take seriously the suggestion made here that the State has invidiously discriminated against the smaller parties by insisting that their nominations be by convention, rather than by primary election. We have considered the arguments presented, but are wholly un-persuaded by the record before us that the convention process is invidiously more burdensome than the primary election..... If claiming an equal protection violation, the appellant's burden was to demonstrate in the first instance a discrimination against them of some substance. Statutes create many classifications which do

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[5] The Texas law provided that parties which polled more than 200,000 votes in the previous gubernatorial election must hold primary elections, parties which polled less than 200,000 votes but greater than 20/'o of the overall gubernatorial vote could choose either primary elections or nominating conventions, and parties polling less than 2% had to choose their candidates for the general election by nominating conventions. American Party, 415 U.S. at 772-73.

> not deny equal protection; it is only invidious discrimination which offends the Constitution. Appellants' burden is not satisfied by mere assertions that small parties must proceed by convention when major parties are permitted to choose their candidates by primary election. The procedures are different, but the Equal Protection (Clause does not necessarily forbid the one in preference to the other.

American Party, 415 U.S. at 781-82 (internal quotation marks and citations omitted).

The Court further reasoned that:

> The fact is that there are obvious differences in kind between the needs and potentials of a political party with historically established broad support, on the one hand, and a new or small political organization on the other. [A State is not] guilty of invidious discrimination in recognizing these differences and providing different routes to the printed ballot. Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike .

Id. at 782 n.13 (quoting Jenness v. Fortson, 403 U.S. 431 441-42 (1971)).

The American Party Court also had before it the issue of the constitutionality of a Texas provision providing for public financing from State revenues for primary elections of only those political parties casting 200,000 or more votes for governor in the prior general election. Id. at 791-94. The Court upheld the validity of the provision, reasoning that a political party should not be made to bear the burden of the additional expense of a state required primary election. Id. at 793-92. Furthermore, the Court also held that the State was justified in not providing funding to political parties which had not previously shown such widespread public support. The Court specifically stated, "'we cannot agree that the State, simply because it defrays the expenses of party primary elections, must also finance the efforts of every nascent political group seeking to organize itself . . ." Id. at 794. Thus, in accord with United States Supreme Court precedent, the Rhode Island election laws providing for State sanctioned and funded primary elections for "political parties" only are constitutional.

4. R.I.G.L. Section 17-15-8.

In addition to challenging title 17, chapter 15 in its entirety as independent or minor party candidates, the plaintiffs also challenge the constitutionality of Section 17-15-8 as it applies to unendorsed major party candidates. Section 17-15-8 provides that in the party primary elections "the names and addresses of candidates having the Endorsement of their party committees shall be printed in the firs--- column at the right of the title of the offices they seek and shall be marked with an asterisk (*)..... (Michie 1994). Plaintiffs contend that this provision unconstitutionally discriminates against unendorsed party candidates. For the following reasons, this argument also fails.

Plaintiffs have offered absolutely no evidence that the above provision has any appreciable impact "on the right to vote, or the right to have one's vote tallied." Werme, No. 95-1982, slip op. at 11. Additionally, the provision has no impact on ballot access. Id. Thus, because the injury to plaintiff's First and Fourteenth Amendment Rights are not serious, the State need only show that the election provision has a rational basis. Id. at 13; see also McLain v. Meier, 496 F.Supp. 462, 472 (1980) (claim of "positional bias" on ballot subjected to rational basis test); Clough v. Guzzi, 416 F.Supp 1057, 1067 (D. Mass. 1976) (Massachusetts provision giving incumbents first position on ballot and designating them as incumbents subjected to rational basis test).

The United States Supreme Court has held that political parties cannot be barred from endorsing candidates. Eu v. San Francisco Democratic Comm., 489 U.S. 214, 229 (1989); see also Abrams v. Reno, 452 F.Supp.1166, 1171-72 (S.D. Fla. 1978), aff'd, 649 F.2d 342 5th Cir. 1981), cert. denied, 455 U.S. 1016 (1982) (holding Florida's statutory ban on primary endorsements by political parties unconstitutional). The Eu Court held that such a ban violated a political party's freedom of speech and freedom of association protected by the First and Fourteenth Amendments. 489 U.S. at 229. As the Court stated, a political party has the right "to select a "standard bearer who best represents the party's ideologies and preferences."' Id. at 224 (quoting Ripon Society, Inc. v. National Republican Party, 525 F.2d 567, 601 (D.C. Cir. 1975) (Tamm, J., concurring in result), cert. denied, 424 U.S. 933 (1976)). It is clear, however, that such a right would be moot if the party were not allowed to effectively communicate to party members who this "standard bearer" was. Surely, just as the party has the right to endorse

a candidate, the party members have an equally strong interest in knowing who the endorsed person is. See Tashjian v. Republican Party of Connecticut, 479 U.S. 208, 220 (1986) (State has legitimate interest in fostering an informed electorate). The challenged Rhode Island provision is simply a method of allowing parties to unambiguously identify which candidates have been endorsed by the party. In doing so, the State furthers its interest in ensuring orderly, efficient and confusion-free primary elections. Because Section 17-15-8 is rationally related to this legitimate interest, it is constitutional.

5. R. I. G. L. Section 17-25-20.

Plaintiffs also challenge the Rhode Island provision which regulates eligibility for matching public funds. Section 17-25-20 provides in part:

> (6) In order to receive payments under this section, any independent candidate shall first meet the following additional minimum requirements:
> (a) Raise an amount in qualified private contributions equal to twenty percent (20%) of the total amount eligible to be matched for election as to the office sought;
> (b) Receive private contributions from a minimum of two hundred fifty (250) individuals contributing at least twenty-five dollars ($25.00) each; and
> (c) Comply with any and all applicable nomination provisions in this title and qualify for the general election ballot pursuant to the process set forth in this title.

R.I.G.L. Section 17-25-20 (Michie 1994). Plaintiffs contend that this provision unconstitutionally discriminates against independent candidates. The provision, however, is found to be constitutional.

Once again, this provision has no appreciable impact on First and Fourteenth Amendment rights. There is no burden on the right to vote, or the right to have that vote counted. Werme, supra at 11. In addition, given the relative ease with which an independent candidate can get on the general election ballot,[6] the inability to obtain matching public funds would have

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[6] An independent candidate need only obtain the required number of signatures on the nomination papers. See Section 17-14-1 et. seq.

minimal, if any, impact on ballot access. Id. Thus, a rational basis standard will be applied. Id. at 13.

The State, on the other hand, has a strong interest in allocating public funds efficiently. It is clear that the ideological views of the recognized parties enjoy widespread public support. Rhode Island ensures that this is so through its requirement for political party recognition. See Section 17-1-2(f). The State, however, can hardly be expected to help support and fund the election campaign of every candidate with political ideologies differing from those of the major parties. It is certainly reasonable for a State to require a showing that an independent candidate's political ideology is to at least some minimal extent accepted and supported by the public before the State gives that candidate public funds.

While it could be argued that the nomination signature requirement does just this, that is not necessarily the case. Some people, for one reason or another, will sign any candidates nomination papers regardless of that candidate's political stance.[7] On the other hand, people are, for obvious reasons, less- likely to support a candidate whose views they don't with when such support requires a monetary outlay. Section 17-25-20 helps the State ensure that a candidate and his or her political ideology enjoy at least some minimum public support before they are entitled to matching State election funds. if this provision were eliminated, any independent candidate who met the very modest nomination paper signature requirement would be eligible for State funds. This would place a significant burden on a limited supply of funds. This provision is rationally related to the States interest in ensuring efficient and economical use of public funds. Thus, it is constitutional. See Burdick, 112 S.Ct. at 2063-64.

6. R.I.G.L. Section 17-1-2(f).

Lastly, plaintiffs challenge Section 17-1-2(f) in its entirety, not just as it affects other provisions of the election laws. As noted earlier, Section 17-1-2(f) limits recognized political parties to those "political organizations which at the preceding general election nominated a candidate for governor,

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[7] Such a situation is exacerbated by the Rhode Island provision which allows a voter to sign "any number of nomination papers for any office the voter may lawfully vote for at the general election." R. I. G. L Section 17-14-9 (Michie 1994)

and whose candidate for governor at the election polled at least five percent (5%) of the entire vote cast in the state for governor." (Michie 1994). Plaintiffs claim that the State's failure to recognize any and all political parties is unconstitutional. For the following reasons the constitutionality of this provision is determined under the rational basis standard.

Generally, in ballot access cases, the Supreme Court has applied strict scrutiny only when ballot access has been absolutely denied. See, e.g., Williams v. Rhodes, 393 U.S. 23 (1968); see also Dart v. Brown, 717 F.2d 1491, 1499 (5th Cir. 1983). In the case of Anderson v. Celebreeze, 460 U.S. 780, 787-88, 103 S.Ct. 1564, 75 L.Ed.2d 547 (1983), the Court identified two basic constitutional rights affected by such ballot access restriction. The Anderson Court stated that "the right to vote is heavily burdened if that vote may be cast only for major-party candidates" and "[t]he exclusion of candidates also burdens voters' freedom of association, because an election campaign is an effective platform for the expression of views . . . and a candidate serves as a rallying-point for like-minded citizens." No such burdens, however, apply in this instance. There is no absolute denial of ballot access for candidates who are members of an "unrecognized" political party. Such candidates need only qualify and run as independent candidates. There is absolutely no evidence that failure to have a party recognized and instead have a candidate run as an independent impairs the ability to cast a meaningful vote. See Dart, 717 F.2d at 1499-1500. Once again the simple fact is that the State is simply engaging in the constitutionally permissible practice of distinguishing between parties on the basis of prior electoral success. See, e.g., American Party of Texas, 415 U.S. at 781. Thus the rational..... basis standard will be applied.

That it not to say that there may not be some percentage greater than five percent (5%) which might unduly burden ballot access such that a more stringent standard of scrutiny would apply. A five percent (5%) requirement, however, does not cross that threshold. See Dart , 717 F.2d 1502-04 (5% of vote for party candidate in preceding presidential election required for party recognition found to be constitutional under rational basis test); see also, Jenness v. Fortson, 403 U.S. 431 (1971) (five percent (5%) petition requirement upheld). Rhode Island certainly has "an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot - the interest, if no other, in avoiding confusion, deception, and even frustration of the democratic process at the general election." Jenness,

403 U.S. at 442. The term "political party"' "implies a relatively numerous group of people, associated together for common political purposes, with some sort of organization actively functioning in the political arena." Dart, 717 F.2d at 1508. For a state to recognize a political party and represent that party on the ballot as such, when in fact there is no such party in the commonly understood sense of the word, can lead to voter deception and confusion. Id. In addition, just as the proliferation of candidate names on the ballot may foster confusion, so may an unrestricted proliferation of party names. Thus, requiring a "preliminary showing of a significant modicum of support" for a party before a candidate's affiliation with that party is noted on the ballot also furthers the state interest in minimizing ballot confusion and deception. Jenness, 403 U.S. at 442. Section 17-1-2(f) is directly related toward the advancement of this interest. Thus, the Rhode Island provision limiting recognized political parties is constitutional.

III. CONCLUSION:

For the foregoing reasons, the Rhode Island Election Laws considered herein are declared to be constitutional. Judgment will enter for the defendants for costs.

ENTER:

/S/
_____

Francis J. Boyle, Senior Judge
July 12, 1996

So Ordered:

/S/ _____
Lorraine Kizior, Deputy clerk

July 12, 1996

AO 450 (Rev. 5/85) Judgment in a Civil Case

United States District Court

FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, JOSEPH CARLEVALE, SR., JOSEPH F. DEVINE, ANTHONY ALMONTE, ROBERT PLANTE, ET AL.

JUDGMENT IN A CIVIL CASE

V.

STATE OF RHODE ISLAND, ET AL.

CASE NUMBER: CA. 94-331 B

~~**Jury Verdict.**~~ This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

- **Decision by Court.** This action came to trial or hearing before the Court.

The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED
JUDGMENT ENTERED FOR DEFENDANTS FOR COSTS, PURSUANT TO THE OPINION RENDERED ON THE BELOW DATE BY HON. FRANCIS J. BOYLE, USDC JUDGE.

JULY 12, 1996
Date

RAYMOND F. BURGHARDT
Clerk --
FRANCIS P. MCCABE
FRANCIS P. MCCABE
(By) Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, JOHN M. CARLEVALE, SR. JOSEPH F. DEVINE, ANTHONY ALMONTE, ROBERT PLANTE and other similarly situated citizens.
Plaintiffs
VS.
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, BARBARA LEONARD, in her official capacity as SECRETARY OF STATE, the members of the GENERAL ASSEMBLY in their official capacity, BRUCE SUNDLUN in his official capacity as GOVERNOR, JOSEPH DiSTEFANO in his capacity as CHAIRMAN of the RHODE ISLAND BOARD of ELECTIONS, GUY DUFAULT in his capacity as CHAIRMAN of the RHODE ISLAND STATE DEMOCRAT COMMITTEE and JOHN HOLMES in his capacity as CHAIRMAN OF THE RHODE ISLAND REPUBLICAN STATE COMMITTEE
Defendants

C.A. NO.: 94-0331-B

NOTICE OF APPEAL

Now comes the Plaintiffs DONALD GILL, JOHN M. CARLEVALE; SR., ROBERT F. PLANE and other similarly situated citizens and appeal, on all matters, to the United States Court of Appeals for the First Circuit from the Judgment entered on July 12, 1996 by Senior District Court Judge, Franci J. Boyle, United States District Court for the District of Rhode Island in Civil Action 94-0331-B.

The Defendants in C.A. #94-0331-B are: State of Rhode Island and Providence Plantations, Barbara Leonard, in her official capacity as Secretary of State, The Members of the General Assembly in their Official Capacity, Bruce Sundlun in his Official Capacity as Governor, Joseph Distefano in his Capacity as Chairman of the Rhode Island Board of Elections, Guy Dufault in his Capacity as Chairman of the Rhode Island State Democrat Committee and John Holmes in his Capacity as Chairman of the Rhode Island Republican State Committee.

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John M. Carlevale, Sr.
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, ET AL	:	
V.	:	C.A. NO. 94-0331
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, ET AL	:	

ORDER

Plaintiff s motion to vacate filed Feb. 3, 1995 is denied as frivolous and leave is granted to defendants to seek counsel fees and expenses for services rendered in connection with their opposition.

SO ORDERED:

Francis J. Boyle /S/
Francis J. B., Senior Judge

February 16,1995

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, JOHN CARLEVALE, SR. JOSEPH F. DEVINE, ANTHONY ALMONTE, ROBERT PLANTE and other similarly situated citizens. Plaintiffs	)	
vs.	)	C.A. NO.: 94-0331-B
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, BARBARA LEONARD, in her official capacity as SECRETARY OF STATE, the members of the GENERAL ASSEMBLY in their official capacity, BRUCE SUNDLUN in his official capacity as GOVERNOR, JOSEPH DiSTEFANO in his capacity as CHAIRMAN of the RHODE ISLAND BOARD of ELECTIONS, GUY DUFAULT in his capacity as CHAIRMAN of the RHODE ISLAND STATE DEMOCRAT COMMITTEE and JOHN HOLMES in his capacity as CHAIRMAN OF THE RHODE ISLAND REPUBLICAN STATE COMMITTEE Defendants	)	

MOTION TO RECUSE

Now come the PLAINTIFFS in the above captioned matter and demand that the Honorable Senior District Judge Francis J. Boyle recuse himself from the above captioned matter for the following good and sufficient reasons:

A19b May 30, 1996

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, ET AL.	)	
	)	
vs.	)	C.A. NO.: 94-0331-B
	)	
STATE OF RHODE ISLAND	)	

MOTION FOR MANDAMUS

The Petitioners, Donald Gill, Robert F. Plante and John Carlevale, Sr., in Gill, et al v. State of Rhode Island, et al., C.A. 94-0331, presently pending in the District Court for the District of Rhode Island move this Honorable Court to command Senior Judge Francis Boyle to perform a duty that he owes to the Petitioners and the State of Rhode Island in the above captioned matter and to specifically and expeditiously and without further delay set a jury trial date for all matters of fact and law triable by a jury in the above captioned matter and to render a decision on the question of the Constitutionality of the Rhode Island Election laws.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DONALD GILL, JOHN CARLEVALE, SR. JOSEPH F. DEVINE, ANTHONY ALMONTE, ROBERT PLANTE and other similarly situated citizens. Plaintiffs	)	
vs.	)	C.A. NO.: 94-0331-B
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, BARBARA LEONARD, in her official capacity as SECRETARY OF STATE, the members of the GENERAL ASSEMBLY in their official capacity, BRUCE SUNDLUN in his official capacity as GOVERNOR, JOSEPH DiSTEFANO in his capacity as CHAIRMAN of the RHODE ISLAND BOARD of ELECTIONS, GUY DUFAULT in his capacity as CHAIRMAN of the RHODE ISLAND STATE DEMOCRAT COMMITTEE and JOHN HOLMES in his capacity as CHAIRMAN OF THE RHODE ISLAND REPUBLICAN STATE COMMITTEE Defendants	)	

MOTION FOR A SPEEDY TRIAL BY JURY

Inasmuch as the above captioned matter has been before this court for approximately 22 months, June 22, 1994, the PLAINTIFFS, Gill, Plante and Carlevalle demand a SPEEDY TRAIL BY JURY on all matters of fact and law triable by a jury in the above captioned matter.

June 17, 1996

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Misc. No. 96-8032

IN RE:

DONALD GILL, ROBERT W. PLANTE,
JOHN W. CARNEVALE, SR. AND ANTHONY ALMONTE,
Petitioners.

Before
Selya, Cyr and Boudin,
Circuit Judges.

ORDER OF COURT
Entered June 17, 1996

The petition for a writ of mandamus is denied.

By the Court:

William Hins
Clerk.

[Cert. cc: USDC of Rhode Island and Judge Boyle,
Messrs.. Gill, Plante, Carnevale, Almonte, Pine, Palombo]

February 6, 1996

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 96-1958

DONALD GILL, JOHN CARLEVALE, SR., ROBERT PLANTE,
Plaintiffs, Appellants,

V.

STATE OF RHODE ISLAND, ET AL.,
Defendants, Appellees,

JOHN DEVINE, ET AL.,
Plaintiffs, Appellees.

JUDGMENT

Entered: February 6, 1997

This cause came on to be submitted on the briefs and original record on appeal from the United States District Court for the District of Rhode Island.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The judgment of the district court is affirmed.

By The Court:

Clerk

[cc: Messrs. Gill, Carlevale, Plante, Craven, Fine]

UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT
617- 617-223-9057

No. 96-1958

DONALD GILL, JOHN M. CARLEVALE, SR., ROBERT PLANTE,
Plaintiffs, Appellants,

V.

STATE OF RHODE ISLAND, ET AL.,
Defendants, Appellees.

JOSEPH DEVINE, ET AL.,
Plaintiffs, Appellees.

Before

Selya, Circuit Judge,
Cyr, Senior Circuit Judge,
and Boudin, Circuit Judge.

ORDER OF COURT
Entered March 6, 1997

The motion for reconsideration, which also seeks oral argument and publication of our opinion, is denied.

By the Court:

WILLIAM H. NG, Clerk

By: *Mary E. O'Callagan* /S/
Administrative Manager

[cc: Messrs. Almonte, Devine, Guida, Fine, Craven, Leach, Palombo, Plante, Carlevale, Gill, and Ms. Merolla]

[TRANSCRIPT: 94-0331-B JULY 25-26, 1994]

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MONDAY, JULY 25, 1994

(PROCEEDINGS COMMENCED)
THE CLERK: Civil Action 94-0331, Gill, et als. vs. State of Rhode Island.

THE COURT: Who do we have here this morning?
MR. ALMONTE: Good morning. With the permission of the Court, my name is Anthony Almonte, and we would like to proceed with the motion for the honorable Court to recuse himself in this matter. It was filed this morning. I don't know if the Clerk has given it to you yet.
THE COURT: I haven't seen it.
MR. ALMONTE: It was filed this morning.
(DOCUMENT HANDED TO COURT THROUGH CLERK)
THE COURT: Who do we have for the Defendants here?
MR. PALUMBO: Your Honor, Thomas Palumbo, Special Assistant Attorney General for Defendant State of Rhode Island, Governor Sundlun and the General Assembly.
MR. SHERMAN: Deming Sherman, your Honor, representing Secretary of State.
MR. BUCCI: Anthony Bucci, Rhode Island Board of Elections.
THE COURT: Have you seen this motion?
MR. SHERMAN: No, we got it this morning, your Honor.
THE COURT: Do you want to be heard? Do you wish to

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THE COURT: He wouldn't take up the other issues. He said he wasn't going to do it. Because it would unduly, prejudice the Defendants.
MR. ALMONTE: That's right, that would prejudice

them. But he did, I can make reference to this Court, and I'm sorry I'm not that completely prepared today, in his statement he alluded to the fact that the amended complaint had some validity.

THE COURT: Well, I haven't seen that.

MR. CARLEVALE: May I say something, your Honor.

THE COURT: No, one at a time. We're not going to have people jumping up and down here.

MR. ALMONTE: Your Honor, I would say that if the Defendants have no objection to the Court recusing himself and that the sister case to this in itself was an obstacle for us because the Attorney General and the other officers swear to uphold the Constitution of the State of Rhode Island and the United States Constitution and they, the Attorney General's office, their obligation is not that. Their obligation is to uphold the laws of the State as they stand and it's up to individuals like us, independents, unfortunately to do the best that we can under the circumstances without legal or cocounsel or legal representation. We are here without legal representation because we were unable to obtain it. We're ....

questions. So it's not a sister case. It's a different case. It's another case, and I have a duty to sit and so I'm going to deny your motion and note your exception. Now, we've got to set up some rules here as to who is going to talk for whom. I'm not going to listen to one, two, three, four, five different people.

MR. ALMONTE: No, all I'm bringing in this morning is several motions that were filed.

THE COURT: What?

MR. ALMONTE: There were several motions filed on the way in this morning. Apparently you didn't have them.

THE COURT: This isn't McDonald's you know. We don't have quite that quick service. We do pretty will with turning things out but we don't move quite that fast.

MR. ALMONTE: All I was going to say-is that I have copies of the motions if they hadn't been sent upstairs because you didn't have the motion to recuse so I assumed you didn't have the other three papers.

THE COURT: What are these other motions?

MR. ALMONTE: There's a default judgment. Motion for default judgment. There's a memorandum in support of the judgment and an objection to the Defendant's motion for enlargement of time.

THE COURT: Let me see the motion for default judgment

(DOCUMENT HANDED UP TO COURT THROUGH CLERK)

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THE COURT: Now, is there anybody else who has any reason we haven't heard before?

MR. ALMONTE: Yes, your Honor. Your Honor, my name is Anthony Almonte and I would like to have, for the record, all of the testimony of the four additional Plaintiffs added to my testimony as though I had said it myself.

THE COURT: You want to adopt what they said.?

MR. ALMONTE: Yes, if I could adopt that.

THE COURT: I'll let you do that.

MR. ALMONTE: And the second is that on the motion to recuse

where the Court had denied us that. I would like to make available

to us all of the remedies that we may have in the matter. At this particular point we don't want to accept the Court's opinion that the Court not recuse itself.

THE COURT: No, you have an exception to that and if the occasion arises you can argue that to the Court of Appeals.

MR. ALMONTE: Thank you, your Honor.

THE COURT: If it's necessary.

MR. ALMONTE: Thank you.

THE COURT: What do the Defendants have to say?

MR. PALUMBO: Your Honor, Thomas Palumbo, for Defendant State of Rhode Island, Governor Sundlun and the

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MR. PLANTE: But they didn't have any idea whether they got the required number of signatures. Which brings me to another very important point.

THE COURT: Why do they need signatures?

MR. PLANTE: The endorsed candidate?

THE COURT: Yes.

MR. PLANTE: Well, they need signatures just like I do. They have their nomination papers. That brings me to another point. You were explaining the difference between the paper that the signatures of the endorsed candidates were placed versus the ones that weren't endorsed no matter what the party affiliation was. In the Rhode Island election laws they do not state how many signatures have to be present on that. So my opinion is that part of the law is ambiguous and thus any ambiguous law is in fact unconstitutional where they do not determine how many signatures must be on that endorsed candidate list. Now, there's one other point that I want to bring up. We ask for a jury trial as far as the constitutional question goes on all of the election laws that are up for or in question here. We also ask for injunctive relief today. We also ask you to recuse yourself. After hearing the comments back and forth today I have serious reservations whether Francis J. Boyle, a registered Democrat, who has been voting Democrat

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right along can be objective.

THE COURT: I haven't missed an election since I had the right to vote.

MR. PLANTE: But, can you be objective in this case.

THE COURT: Absolutely.

MR. PLANTE: You understand what this is?

THE COURT: I don't know what it is.

MR. PLANTE: This is your voting registration record.

THE COURT: Okay. I voted in every election that I had the opportunity to vote in since I first registered to vote.

MR. PLANTE: Thank you, your Honor.

THE COURT: If you get perfect attendance awards I would have gotten one.

MR. PLANTE: Thank you.

MR. ALMONTE: Good afternoon, your Honor, Anthony Almonte. Your Honor, I would like to introduce as a full exhibit notes from Mr. Gill that were read this morning. I would like to introduce as a full exhibit your Honor's registration form that Mr. Plante . . .

THE COURT: Let me see it, please.

(DOCUMENT PASSED UP TO COURT THROUGH CLERK)

THE COURT: This is only from 1982.

MR. ALMONTE: I think it goes right up to date, your Honor. I'm not sure.

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THE COURT: Eighty-two to '93. There's nothing before 1982. That will tell you I voted in every election that I could possibly have voted in and every Democratic primary that I could have voted in, all right.

MR. ALMONTE: I expected no less. It's such an honor..

THE COURT: Because I think the right to vote is very important. Okay, we'll mark that Plaintiff's 1.

(VOTING RECORD MARKED EXHIBIT 1)

MR. BUCCI: Can I object, your Honor.

THE COURT: Overruled.

MR. ALMONTE: I'd like to enter this as a full exhibit.

THE COURT: That's what, a typewritten copy of what somebody said here?

MR. ALMONTE: No, they're just notes from Mr. Gill who did not have ample time to go into detail and I would, in the event there's an appeal, I would like to have this marked.

THE COURT: We'll mark it for identification. Plaintiff's 2 for identification.
(NOTES MARKED EXHIBIT 2 FOR IDENTIFICATION)
MR. ALMONTE: Your Honor, I'd like to mark it as a full exhibit if there's no objection.
THE COURT: We're going to mark it for identification ! It's part of the record. You can argue it on appeal if you

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have to.
MR. ALMONTE: Your Honor, I'd like to mark as a full exhibit what Mr. Carlevale introduced and what Mr. Devine introduced.
THE COURT: What are they?
MR. ALMONTE: I'd like to show them to counsel if I may.
(PAUSE)
MR. ALMONTE: Your Honor, I'd like to enter these two as a full exhibit.
THE COURT: Any objection?
MR. BUCCI: No objection.
THE COURT: Three and four.
(PLAINTIFF EXHIBITS 3 AND 4 MARKED)
MR. ALMONTE: Your Honor, I'd like to enter this as a full exhibit. There is no objection to it.
THE COURT: What is it?
MR. ALMONTE: This is candidates that have filed their 1994 candidacy which for the state it's stamped by the Secretary of State's Office.
THE COURT: May I see it.
(DOCUMENT PASSED UP TO COURT THROUGH CLERK)
THE COURT: Mr. Hennessey is going to be a busy fellow if he gets elected, isn't he, running between the Senate and the House. What's the significance of this?

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MR. ALMONTE: Your Honor, the significance of that is that Mr. Sherman made a statement pertaining to Mr. Carlevale that the Board of Canvassers were closed or what

have you. If you look at the time stamp on the front sheet you will see that the time is five something and that Mr. Carlevale's name is on there. So that Mr. Carlevale, for all practical purposes, should have been identified with everyone else.

MR. SHERMAN: Your Honor, there's no issue that he filed.

THE COURT: Pardon me.

MR. SHERMAN: There is no issue that Mr. Carlevale filed. The issue is whether he had been certified at the time that someone came in and picked up the list. My objection as to that particular document is that I do not know who prepared it. All I know about the document is what I see. It has a stamp on it that says received Secretary of State's Office 5 o'clock June 29" or thereabouts. But I do not know who prepared it. I don't know who it's received from.

THE COURT: I'm going to allow it for whatever it's worth. I do want to point out something to you, however. Before somebody feels there hasn't been a disclosure. If you look at Plaintiff's 1 which is my voting record you will see that the initial voting record is Cliff

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Avenue, Newport. If you look at this list you'll see that Bruce Sundlun lives at Seawood Cliff Avenue, Newport He didn't live there when I lived on Cliff Avenue. But I do live within about 500 feet of where he lives. So you should be aware of that.

MR. ALMONTE: Thank you, your Honor. Is this full?

THE COURT: Yes. I've never been in their house.

MR. ALMONTE: Pardon me.

THE COURT: I've never been in their house, okay.

MR. ALMONTE: Okay.

(DOCUMENT MARKED FULL EXHIBIT)

MR. ALMONTE: Your Honor, may I continue.

THE COURT: Go ahead.

MR. ALMONTE: Your Honor, I would like to adopt all the other Plaintiffs' testimony as though I had said it myself. Is that all right with the Court?

THE COURT: All right.

MR. ALMONTE: There is an exhibit in the complaint that has numerous examples of pro se standards which indicate that the pro se standards or pro se litigants are held to less stringent guidelines which the Court has also, gave us that same feeling, that the Court has been patient. I would like to add to the motion for recusal that the Court being a registered Republican and so dedicated . .

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THE COURT: I deny that vehemently.

MR. ALMONTE: I'm s sorry.

THE COURT: I'm a Democrat.

MR. ALMONTE: I'm sorry. But I say that the Court being so strong a Democrat so strong a Democrat, and I would add that to the motion for refusal.

THE COURT: You would want an Independent?

MR. ALMONTE: No, not necessarily. The only one in the federal court that's Independent would be Mary Lisi but we would prefer yourself or Judge Pettine. If I could go on.

THE COURT: Go ahead.

MR. ALMONTE: There are in excess of one point 50 challenges in our complaint and most of the challenges have at least two or more problems and challenges to it. The argument by the Defendants' counsel has not persuaded me and, of course, that decision is up to the Court, but it has not persuaded me in the least that this request for a preliminary injunction and permanent injunction should not be granted. I would also like to point out for the record that the Defendants themselves have, were not here and were not available for us to question them and seeing that the President of the United States has to appear for questioning I think that any Plaintiffs here should have been here today. I thought it would be

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nice if we could do it in closed session off the record.

THE COURT: We're not going to do anything off the record.

MR. ALMONTE: But the Honorable Raymond J. Pettine afforded Independents of the 1992 election copies of the transcripts and without objection for the opposing counsel. I think we should be extended the courtesy, the Independents here, because we are merely here on constitutional issues and it could run into large sums of money. We are laymen in a legal network and so I am asking more or less for the same thing for the Independent We are somewhat indigent so to say and so to pay for us to appeal this issue and come up with the necessary funds would be a hardship.

THE COURT: Well, you haven't lost yet, have you?

MR. ALMONTE: No.

THE COURT: Wait until you lose before you do that.

MR. BUCCI: If I could note an objection. I've heard reference to laymen's legal network.

THE COURT: I don't even know what the laymen's legal network is. I haven't ruled on anything yet.

MR. ALMONTE: Your Honor, I would also suggest to this Court that history and current events indicate that Independents as a rule have no representation in Washington D.C. or here in the state. To the best of my knowledge

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there is only one Independent listed in Washington, D.C. So when you ask who has an advantage being a Republican, a Democrat against being an Independent the Independents have no representation.

THE COURT: Except for that one.

MR. ALMONTE: Except for that one that I am aware of in Washington, D.C.

THE COURT: Are you telling me that the Senators and the members of Congress don't represent people? Let's

take a crime bill that's kicking around down there in Congress. They know full well, people like Bidon.

MR. ALMONTE: They have to do it because the public expects them to do it. Your Honor, what they tell you. . .

THE COURT: Don't they represent people?

MR. ALMONTE: Your Honor, it's my understanding according to history and current events we don't have an Independent candidate and we don't have any representation.

THE COURT: I'm talking about representation of the people, just because somebody's Republican or Democrat, that doesn't mean they can ignore 60 percent of the population.

MR. ALMONTE: Your Honor.

THE COURT: Well, all right.

MR. ALMONTE: Your Honor, I would like to end by

[Transcript: 94-0331-B Feb. 14, 1996]

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to any ruling that I make.

MR. ALMONTE: Thank you, your Honor.

THE COURT: Okay. Now you have a problem.

MR. GILL: No, I don't have a problem.

THE COURT: Would you state your name for the record please.

MR. GILL: My name is Donald Gill, I am a Plaintiff in the matter. I'd just like to state for the record that Mr. Almonte was speaking for Mr. Almonte and not for me and I believe that he was speaking. . .

THE COURT: Well, I appreciate that. I know that there are different people.

MR. GILL: I just want to make sure.

THE COURT: I'm not misled that he's speaking for you. Now are you ready to go with this case?

MR. GILL: Well, we are ready to go but we have one of our key witnesses is out of the country and one of

our Plaintiffs is, he's either out of the country or he's in Arizona or Florida and we're trying to locate him.

THE COURT: Who is it? What Plaintiff is this?

MR. GILL: Joseph Devine.

THE COURT: Mr. Devine.

MR. GILL: Mr. Devine. We can't locate him at the moment. I know he went down to Costa Rica. He was over

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into Arizona and Florida and we're trying to, after we got the notice from the Court we've been frantically trying to see if anybody knows where he is. But as far as being ready, yes, we are ready.

THE COURT: Have we notified Mr. Devine, Mrs. Kizior?

MRS. KIZIOR: I believe we sent it by mail.

THE COURT: To the address that he gave us?

MR. KIZIOR: Yes.

THE COURT: All right, so that's notice to him.

MR. GILL: Mr. Devine no longer lives at 106 Moore Street.

THE COURT: That's up to him to tell us that you see. There's a requirement that you keep us advised of your address so that we can send notices to you. Now 'I've received a list of witnesses that reads something like a who's who of politics in Rhode Island. What are these witnesses for? What do you expect to get these witnesses to testify to?

MR. GILL: Well, for various positions. Certain people that they were affected by these particular laws. Certain people who have experts . . .

THE COURT: Well, whether they're affected or not immaterial. It's whether you are affected.

MR. GILL: Absolutely. But we are also here in. . .

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in understanding what reason there could possibly be for witnesses coming here to testify about their experiences in the world of politics because it seems to me it has little to do with whether or not a particular Rhode Island statute

complies with the requirements of the United States Constitution. Most of those issues are legal issues which don't require evidence that the Court can decide without evidence. I'm not going to take the time of a lot of people unnecessarily.

MR. PLANT: I understand that, your Honor.

THE COURT: I'm not going to take the time, for instance, of legislators being brought in here to testify, being asked "why did you introduce a particular bill" because that isn't going to help me at all. I think you'd better take a look at that list and make sure that there's a reason for anybody coming in to testify. Because, as I said, if it turns out that we bring somebody here that you used the subpoena power of this Court to force somebody to come to this Court and leave whatever else they're doing and it turns out that witness cannot help us at all I'm going to consider very seriously requiring you, you're the one who subpoenaed that witness, to reimburse that person for the time they lost coming to Court. I want that understood.

MR. PLANT: That's understood.

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regulation of elections if they are to be fair and honest and if some sort of order rather than chaos is to accompany the Democratic process. This is a legitimate interest in reasonable regulation. It's based not only on common sense but on Article I's reservations to the states of the time, place and manner of holding elections This Court, the District of Rhode Island, in the Devine case which is reported at 827 Federal Supplement 854' generally recognized that Independent candidates may be treated differently than candidates from the two recognized political parties. Further, in a case from another circuit which includes some situation to the Supreme Court authority, the Seventh Circuit and Board of Election Commissioners vs. Libertarian Party stated "different treatment of minority parties that does not exclude them from the ballot, prevent them from attaining majority party status if they achieve widespread support or prevent any voter from voting for the candidate

of his choice and that is reasonably determined to be necessary to further an important state interest does not result in the denial of equal protection."

THE COURT: Well, the Plaintiffs argument is, as I understand that argument, that even Hercules cannot surmount some of these barriers. He said you've got the requirement of, I don't know of any case law on this

issue, the requirement that, what is it, 9-50 people give $25 before you can get involved in the sharing. Do you think you can find 250 people to give $25 right now for your candidacy?

MR. Palumbo I don't think you'll ever see my name anywhere on a ballot, your Honor.

THE COURT: That's not an answer to my question.

MR. PALUMBO: Well,. you asked me if I thought I could.

THE COURT: Yea. That's going to take a little doing.

MR. PALUMBO: A little doing and a lot of arm twisting probably, your Honor.

THE COURT: Well, 1 hope there's no arm twisting involved. Intellectual conviction maybe but not arm twisting.

MR. PALUMBO: Well, intellectual arm twisting, your Honor. But I'm not sure that I could. But I'm not sure that that's an unreasonable regulation. Considering what's at issue, your Honor.

THE COURT: Do you know what amount the state makes available to a candidate for governor?

MR. PALUMBO: I do not, your Honor.

MR. CRAVEN: It's $755,000.

THE COURT: That's matching, it's about a million

C.A. 92-0580-P

D.C. Opinion by Pettine, Devine v. State of RI, 827 F. Supp. 852 (DRI-1993)

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testimony to the effect that defendants immediately retained a printer to do the work, that the ballots were reproduced, that paper availability limited the choice of paper size, that a courier delivered the boxes of materials to the boards of canvassers, and that an explicit instruction sheet was drafted and circulated with the boxes of court-ordered materials. Finally, due to the emergency nature of the situation and the attendant time constraints, the Court's Order was not explicit as to all the details necessary for compliance, such as paper size, the specific people responsible for carrying out the Order, and the means by which defendants were to communicate the purpose of the sample ballots and disclaimers to the thousands of local poll workers ultimately responsible for distributing them. Although I find, as a matter of fact, that substantial numbers of voters did not receive the corrected sample ballots and disclaimers, defendants have demonstrated that they took substantial steps, in good faith, to comply with the Order.

D. Motion to Amend the Complaint

Finally, plaintiffs have moved to amend their complaint to challenge the constitutionality of a large chunk of the Rhode Island election code. Federal Rule of Civil Procedure 15(a) --provides that amendments to a pleading may be made as a matter of course prior to service of a responsive pleading or within twenty days of initial service of the pleading, but after that "a party may amend the party's pleading only by leave of court or by written

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consent of the adverse party While such amendments shall be given freely "when justice so requires," the decision to grant or deny a motion to amend lies within the discretion of the district court. Tiernan v. Blyth, Eastman, Dillon &

Co., 719 F.2d 1, 4 (lst Cir. 1983)(citing Foman v. Davis, 371 U.S. 178, 182 (1962)).

I sympathize with plaintiffs' desire to vindicate the rights of all present and future independent candidates by challenging the constitutionality of state laws that appear to disadvantage them. But the current posture of this case requires a denial of their motion. Since its inception, the case has focused exclusively on the 1992 ballot lay-out process and the distribution of the official Sample Ballots. Extensive testimony has already been heard on these issues. In my view, the injection at this time of a panoply of additional constitutional questions would unduly prejudice the defendants. The motion is DENIED.

III. CONCLUSION

The writing of this opinion brings closure to a most unfortunate series of events in Rhode Island election administration. While there has been no evidence of willful wrongdoing on the part of defendants, the configuration, printing and distribution of the Sample Ballots at issue here failed to safeguard the rights of the voters in this State. Nevertheless, I decline to overturn or modify the results of the November 1992 statewide election and decline to hold defendants in contempt of Court.

CANDIDATE LOTTERY LISTS

FOR

PRIMARY ELECTION - SEPTEMBER 13, 1994

SECRETARY OF STATE

BARBARA M. LEONARD

State of Rhode Island and Providence Plantations
OFFICE OF THE SECRETARY OF STATE
218 STATE HOUSE
PROVIDENCE, R.I.
02903-1105

Barbara M. Leonard
Secretary of State

PROCEDURE FOR DRAWING PRIMARY ELECTION LOTTERIES

AUGUST 2, 1994

Primary election ballots are governed by Section 17-15-8 of the Rhode Island General Laws. Recent legislation passed by the General Assembly (Chapter 127) amended this law and mandated that the names of candidates for federal, general offices, and general assembly offices in a primary election be chosen by lot. Candidates running for local elected office shall be listed alphabetically on the ballot, following the endorsed party candidate. The endorsed party candidate shall occupy the vertical column nearest the office they seek. Following the endorsed candidate shall be listed the names of those in the lottery listed in the order chosen under the direction of the Secretary of State. In compliance with state law, the Department of State has implemented the following lottery procedure for placement of candidates on the primary election ballot:

ADMINISTRATION: (401) 277-2357 T.D.D.: (401) 277-2311
FAX: (401) 277-1356

* A random lottery will be held for all races in which there are two or more unendorsed candidates running for office. Lotteries today will be held for the Republican office of Lt. Governor; and Democrat offices of Governor, Lt. Governor, and Secretary of State. Lotteries will also be held for Democrat, Senate Districts 7, 11, 34, 36, and 40; and Democrat, House Districts 7, 14, 18, 28, 29, 56, 67, and 92. Lotteries will first be held for state general office by political party, and then for senate and representative by district. For races in which there are fewer than two unendorsed party candidates, no lottery will be held.

* A large chart entitled "Candidate Lottery List" is displayed on the wall. This chart is headed by the office to be lotteried and shall include the names of the -endorsed and unendorsed candidates for each office. The endorsed party candidate shall be assigned to the first line on the chart. Unendorsed candidates shall then be listed alphabetically according to their last name on the lines numbered 1, 2, 3, etc. In races where there are no endorsed candidates, the line labeled ENDORSED on the chart will indicate "None."

* Each unendorsed candidate will be assigned a consecutively numbered ball in the order they appear on the alphabetical list. For example, if five candidates by

by the names of Downs, Brown, Edwards, Cook and Adams have filed for Governor, and Edwards is the endorsed candidate, they will be arranged alphabetically and assigned numbers as follows: Adams, one; Brown, two; Cook, three; Downs, four. Edwards will be listed first on the list and assigned no ball number, since as the endorsed candidate she/he goes in the first column.

* A ball shall be placed in the lottery container representing each number assigned to each unendorsed candidate pursuant to the alphabetical listing procedure. For example, if four unendorsed candidates are running for Governor, then numbers 1, 2, 3 and 4 will be placed in the container.

* After the numbers are placed in the container they -shall be drawn one at a time from the container. The candidate on the alphabetical list with a number corresponding to the first ball drawn shall be certified to appear first on the ballot after the endorsed party candidate. This candidate will accordingly be assigned "Ballot Column 2." This procedure will continue until all the numbers have been drawn and each candidate has been assigned a corresponding ballot column.

BARBARA M. LEONARD

Primary Lottery

PARTY: REPUBLICAN

OFFICE: LIEUTENANT GOVERNOR

	CANDIDATE	BALLOT COLUMN
ENDORSED	John FEROCE	1
BALL # 1	IN ALPHA ORDER Gloria P. NERNEY	
BALL # 2	Robert F. PLANTE	

BARBARA M. LEONARD

Primary Lottery

PARTY: DEMOCRAT

OFFICE: GOVERNOR

	CANDIDATE	BALLOT COLUMN
ENDORSED	Bruce **SUNDLUN**	1
BALL # 1	IN ALPHA ORDER Louise **DURFEE**	
BALL # 2	Donald **GILL**	
BALL # 3	Myrth **YORK**	

Primary Lottery

PARTY: DEMOCRAT

BARBARA M. LEONARD

OFFICE: SECRETARY OF STATE

	CANDIDATE	BALLOT COLUMN
ENDORSED	James R. LANGEVIN	1
BALL # 1	IN ALPHA ORDER Julia P. CALIFANO	
BALL # 2	John M. CARLEVALE	
BALL # 3	Ray RICKMAN	

JUN-02-1997 16:06 P.01

50 Branch Avenue, Providence, RI 02904
phone 401-277-2345 fax 401-821-3255

Rhode Island State Board of Elections

To: From: Ben Chase

Fax: Pages:

Phone: Date: 6-2-97

Re: 1994 Turnout CC:

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• Comments:

— Found correct primary sheet. Percentages are right on this one.

JUN-02-1997 16:06 P.02

PRIMARY, 1994

	ELIGIBLE	VOTES CAST	% OF TOTAL ELIGIBLE	DEMOCRAT	%	REPUBLICAN	%
BARRINGTON	11,535	1,973	17%	1,179	10	794	7
BRISTOL	11,618	2,596	22%	1,658	14	936	8
BURRILLVILLE	7,672	1,323	17%	959	13	364	4
CENTRAL FALLS	5,492	1,389	25%	1,156	21	233	4
CHARLESTOWN	3,942	985	25%	282	7	703	18
COVENTRY	16,961	3,032	18%	1,658	10	1,374	8
CRANSTON	44,851	11,214	25%	7,146	16	4,068	9
CUMBERLAND	17,478	5,471	31%	4,133	28	1,338	7
EAST GREENWICH	8,211	1,883	23%	756	10	1,127	14
EAST PROVIDENCE	25,479	5,482	22%	3,710	15	1,772	7
EXETER	3,189	620	19%	351	11	269	8
FOSTER	2,521	560	22%	162	6	398	16
GLOCESTER	5,278	1,034	20%	411	8	623	12
HOPKINTON	4,040	476	12%	231	6	245	6
JAMESTOWN	3,523	1,031	29%	474	13	557	16
JOHNSTON	17,723	6,939	39%	6,434	36	505	3
LINCOLN	12,000	3,927	33%	1,501	13	2,426	20
LITTLE COMPTON	2,406	632	26%	238	10	394	16
MIDDLETOWN	8,304	1,759	21%	884	8	1,075	13
NARRAGANSETT	8,731	2,175	25%	1,321	15	854	10
NEWPORT	13,204	3,323	25%	1,687	13	1,636	12
NEW SHOREHAM	1,124	197	18%	106	9	91	9
NORTH KINGSTOWN	14,492	3,396	23%	1,681	12	1,715	11
NORTH PROVIDENCE	21,039	9,032	43%	8,601	41	431	2
NORTH SMITHFIELD	6,636	1,517	23%	773	12	744	11
PAWTUCKET	33,563	7,548	22%	5,906	18	1,642	4
PORTSMOUTH	9,938	2,275	23%	785	8	1,490	15
PROVIDENCE	77,733	14,309	18%	12,102	16	2,207	2
RICHMOND	3,500	590	17%	349	10	241	7
SCITUATE	5,900	1,285	22%	419	7	866	15
SMITHFIELD	11,110	2,409	22%	1,398	13	1,011	9
SOUTH KINGSTOWN	11,738	3,064	26%	2,113	18	951	8
TIVERTON	9,290	2,327	25%	1,688	18	639	7
WARREN	6,084	1,352	22%	958	16	394	6
WARWICK	50,858	15,686	31%	11,582	23	4,106	8
WESTERLY	12,711	1,299	10%	549	4	750	6
WEST GREENWICH	2,742	619	23%	290	11	329	12
WEST WARWICK	15,557	2,607	17%	1,545	10	1,062	7
WOONSOCKET	18,246	3,498	19%	2,322	13	1,176	6
TOTALS	546,419	130,836	23%	89,298		41,538	

JUN-02-1997 16:07

NOVEMBER 8, 1994
PERCENTAGE OF VOTES CAST

City/Town	Eligible Vote	Votes Cast	Percentage Votes Cast
BARRINGTON	11,553	7,488	65%
BRISTOL	11,808	7,722	65%
BURRILLVILLE	7,885	4,957	63%
CENTRAL FALLS	5,505	3,042	55%
CHARLESTOWN	3,991	2,665	67%
COVENTRY	17,335	12,551	72%
CRANSTON	46,848	33,644	72%
CUMBERLAND	18,361	12,556	68%
EAST GREENWICH	8,232	5,377	65%
EAST PROVIDENCE	25,671	17,556	68%
EXETER	3,268	2,208	68%
FOSTER	2,515	1,780	71%
GLOCESTER	5,363	3,564	67%
HOPKINTON	4,040	2,416	60%
JAMESTOWN	3,523	2,662	76%
JOHNSTON	18,016	12,692	70%
LINCOLN	12,011	9,011	75%
LITTLE COMPTON	2,431	1,711	70%
MIDDLETOWN	8,396	5,480	65%
NARRAGANSETT	8,847	6,087	69%
NEWPORT	13,236	7,918	60%
NEW SHOREHAM	1,162	912	79%
NORTH KINGSTOWN	14,641	10,344	71%
NORTH PROVIDENCE	22,854	14,674	64%
NORTH SMITHFIELD	6,820	4,598	67%
PAWTUCKET	33,768	20,200	60%
PORTSMOUTH	10,121	6,697	66%
PROVIDENCE	77,084	40,569	53%
RICHMOND	3,263	2,313	71%
SCITUATE	5,910	4,388	74%
SMITHFIELD	11,299	7,761	69%
SOUTH KINGSTOWN	11,957	8,545	72%
TIVERTON	9,376	5,325	57%
WARREN	6,120	4,089	67%
WARWICK	50,286	37,073	74%
WESTERLY	12,831	7,139	56%
WEST GREENWICH	3,020	2,497	83%
WEST WARWICK	14,978	10,159	68%
WOONSOCKET	18,313	11,007	60%
STATE TOTALS	552,638	361,377	67%

(SENATOR IN CONGRESS — REPRESENTATIVE IN CONGRESS — GENERAL OFFICERS)

State of Rhode Island and Providence Plantations

DEMOCRAT
PRIMARY NOMINATION PAPER

(CANDIDATES ENDORSED BY PARTY COMMITTEE)

To be filed with the Local Board of Canvassers not later than 60 days before Primary.
(Final Date July 15, 1994 at 4 P.M.)
(Chapter 17-14, General Laws of 1956, as amended.)

The undersigned, qualified electors in the City/Town of _____ in the State of Rhode Island, in accordance with the provisions of Chapter 17-14 of the General Laws of 1956, as amended, make the following nominations for Senator in Congress, Representative in Congress and General Officers to be voted for at the Democratic Primary to be held on September 13, 1994.

Title of Office	Name of Candidate	Residence (Town or City, Street and Number)
SENATOR IN CONGRESS	LEEDA J. KUSHNER	660 LLOYD AVENUE, PROVIDENCE
REPRESENTATIVE IN CONGRESS SECOND District	JOHN F. REED	11 BRADFORD ROAD, CRANSTON
GOVERNOR	BRUCE SUNDLUN	SEAWARD CLIFF AVENUE, NEWPO
LIEUTENANT GOVERNOR	ROBERT A. WEYGAND	108 GREENWICH AVENUE, EAST PROVIDENC
SECRETARY OF STATE	[illegible] R. LAWARVIN	18 JEFFERSON STREET, WARWICK
ATTORNEY GENERAL	SARA M. QUINN	98 ANDEM STREET, PROVIDENCE
GENERAL TREASURER	RICHARD H. JAMES	15 PROGRESS STREET, PAWTUCKET

Each of the signers of this paper by so signing severally certifies that he or she is a voter in the area from and for which the above named candidates seek to be elected.

	Signatures (To be made in person, as it appears on voting list.)	(Voter's Name to be Printed)	Residences (Street and Number, if any, as it appears on voting list.)
1	Estelle M. Glass	Estelle M. Glass	129 Watermanville Dr. Harmony
2	Marthe O'Hearty	MARTHE J. FeCARTY	9a SAW MILL RD.
3	Arlene R Hamel	Arlene R Hamel	154 Burgate St, Harmony
4	Doreen V Pierce	Doreen V Pierce	106 Watermanville Dr Harmony
5	Robert J Pierce	Robert J Pierce	106 Watermanville Dr. Harmony
6	Elaine R Gilligan	Elaine R Gilligan	16 Watermanville Dr Harmony
7	Eugene F. Gilligan	Eugene F. Gilligan	16 Watermanville DR Harmony
8	Robert G Blais	Robert G Blais	85 Saw Mill Rd
9	Debra A Blais	Debra A Blais	85 Saw Mill Rd
10	Esmond W. Fogarty	Esmond W. Fogarty	18 Melody Ln Lane
11	Doris M. Tucker	Doris M. Tucker	303 Saw Mill Rd
12	Althea P. Tucker	Althea P. Tucker	303 Saw Mill Rd
13	Nancy C. Fogarty	Nancy C. Fogarty	112 Saw Mill Rd Harmony
14	Raymond J. Greene	Raymond J. Greene	139 Watermanville Dr
15	Charles J. Fogarty	Charles J. Fogarty	230 Knotts Trails Road
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(GOVERNOR)

State of Rhode Island and Providence Plantations

DEMOCRAT
PRIMARY NOMINATION PAPER

To be filed with the Local Board of Canvassers not later than 60 days before Primary.
(Final Date July 15, 1994 at 4:00 P.M.)
(Chapter 17-14, General Laws of 1956, as amended.)

The undersigned, qualified electors in the City/Town of LINCOLN in the State of Rhode Island, in accordance with the provisions of Chapter 17-14 of the General Laws of 1956, as amended, make the following nomination for Governor to be voted for at the Democratic Primary to be held on September 13, 1994.

Title of Office	Name of Candidate	Residence (Town or City, Street and Number)
GOVERNOR	DONALD GILL	25-B FIUME STREET, WEST WARWICK

Each of the signers of this paper by so signing severally certifies that he or she is a voter in the area from and for which the above named candidate seeks to be elected.

Signatures (To be made in person, as it appears on voting list.)	(Voter's Name to be Printed)	Residences (Town and Number, if any, as it appears on voting list.)
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A50

R-20 Rev. 1-90

ORIGINAL COPY TO LOCAL BOARD OF CANVASSERS

STATE OF RHODE ISLAND — PERMANENT REGISTRATION OF VOTERS

1. CURRENT NAME AND ADDRESS: CITY OR TOWN: WEST WARWICK

Name (Please PRINT)

☑ M ☐ F

DOE (Last) JOHN (First) — (Middle)

1 MAIN ST (Street Address) — (Apartment Number)

WEST WARWICK (City or Town) RI (State) 02893 (Zip Code)

— (Mailing Address (if different from above))

821-0000 (Phone (in case of further questions))

Place of birth WEST WARWICK Date of birth 12-7-41 (Month/Day/Year)

2. CHECK REASON FOR USING THIS FORM:

☐ First registration ☐ Address change ☑ New to Rhode Island

☐ Name change ☐ Party designation change

Please give the name and address you used the last time you registered to vote.

Voters previously registered in another state or voters changing their address to a different city or town in R.I. hereby authorize the cancellation of their previous registration.

(Last) (First) (Middle)

(Street Address) (Apartment Number)

(City or Town) (State) (Zip Code)

3. IF A NATURALIZED CITIZEN:

Date of naturalization (Month/Day/Year) (Naturalization number or Passport number)

(Court) (City) (State)

PARTY DESIGNATION: REPUBLICAN

VOTING DESIGNATION: REP DIST 1 | VOTG DIST 1 | WARD 10 | SEN DIST 14

4. PARTY AFFILIATION:

☐ Democrat ☑ Republican ☐ Other ☐ Unaffiliated

5. FORM OF IDENTIFICATION PRESENTED: BIRTH CERTIFICATE

6. Date registrant last came to reside in state: 12 (Month) | 7 (Day) | 41 (Year)

Date registrant last came to reside in city or town: 12 (Month) | 7 (Day) | 41 (Year)

7. PLEASE READ AND SIGN THE FOLLOWING PLEDGE:

I hereby certify that I am neither serving a sentence, including probation or parole, for which I was imprisoned, upon final conviction of a felony imposed on any date nor serving any sentence, whether incarcerated or suspended, on probation or parole, upon final conviction of a felony committed after November 5, 1966, nor have I been lawfully adjudicated non compos mentis. I declare under penalty of perjury that all of the information I have provided on this form is true and correct to the best of my knowledge.

John Doe (Signature of person registering) ☐ Mark if incapacitated

Mary Smith (Signature of Registrar or Witness) date 1962 (Month/Day/Year)

VOTING RECORD

YEAR	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	2000	2001
SPECIAL												
PRIMARY	R		D		R							
GENERAL	✓	✓	✓		✓							

NAME: JOHN DOE

DATE OF ORIGINAL REGISTRATION: JAN 1 1962

DATE OF LAST VOTE: —

BACK

REMARKS	DATE	ENTERED BY

SIGNING OF NOMINATION PAPERS

YEAR	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
SPECIAL												
PRIMARY	DR	DR	DR		DR		DR		D			
GENERAL												

17-1-3.1 EVIDENCE OF RESIDENCE FOR VOTING PURPOSES

1. OPERATOR'S LICENSE; 2. MOTOR VEHICLE REGISTRATION; 3. LAST FEDERAL INCOME TAX RETURN; 4. LAST STATE INCOME TAX RETURN; 5. RETAIL CREDIT CARDS; 6. ACCOUNT IN FINANCIAL INSTITUTION; 7. REAL ESTATE OR PROPERTY TAX RECORDS; 8. INSURANCE POLICY; 9. EMPLOYER RECORDS; 10. BUSINESS, PROFESSIONAL UNION OR FRATERNAL ORGANIZATION; 11. RECORDS OF GOVERNMENT AGENCIES; 12. VERIFIED POSTAL SERVICE CHANGE OF ADDRESS FORM

FOR USE BY BOARD OF CANVASSERS ONLY — ALTERNATIVE PROOF OF RESIDENCY

1994 CANDIDATE'S ELECTIONS CALENDAR

IN RHODE ISLAND

PREPARED BY THE OFFICE OF SECRETARY OF STATE
BARBARA M. LEONARD

State of Rhode Island and Providence Plantations
Barbara M. Leonard
Secretary of State
218 State House
Providence, Rhode Island
02903-1105

Dear Candidate and Election Official:

I am pleased to present you with this newly designed, easy to read, and informative 1994 Election Calendar. This publication was prepared as a resource guide for candidates, political parties, and elections officials.

Included in the brochure is a 1994 state and municipal elections calendar, plus information on qualifications for elective office, and local boards of canvassers information. New to this year's publication is a campaign finance calendar, which lists due dates for required financial reports, and should prove helpful in understanding and complying with the reporting requirements.

We are also publishing three other elections publications. These include "How to Register and Vote in Rhode Island -- A Guide for New Voters," "Vote 94, Fact Sheet," and "How to Run for Political Office in Rhode Island -- A Guide for Candidates." These publications may be obtained at the Elections Division at 100 North Main Street, Providence, and at your local boards of canvassers.

I hope you find this publication helpful and informative. If you desire additional information, or would like to share your comments or suggestions, please contact David Clayton in the Elections Division of my office at 277-2340 for assistance.

Sincerely,

Barbara M. Leonard

Barbara M. Leonard

Administration 277-2357 • Archives 277-2353 • Publications 277-2390
Library 277-2473 • Records 277-2370 • TDD 277-2311
FAX 277-1356

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List of other 1994 Election Publications (Inside of back cover)

OPENING AND CLOSING TIMES OF POLLS

MARCH 29, 30, 31	Disaffiliation for candidates
JUNE 15	Last day for disaffiliation for primary voters.
JUNE 27, 28, 29	Candidacy declaration filing period (Candidates for congressional and statewide general offices file with the Secretary of State; candidates for the general assembly, local offices, state committees, or senatorial and representative district committees file with local boards of canvassers). Independent candidates running in the November general election file declarations of candidacy.
AUGUST 13	Deadline to register to vote in the party primaries.
SEPTEMBER 13	**PARTY PRIMARY ELECTIONS**
OCTOBER 8	Deadline to register to vote in the general election
NOVEMBER 8	**GENERAL ELECTION**

1994 ELECTIONS CALENDAR

March 29, 30, 31	**DISAFFILIATION (CANDIDATES).** (§17-14-1.1) Candidates in a party primary must be disaffiliated from the other party (If a member) 90 days prior to filing their declaration of candidacy.
June 15 *(LAST DAY)*	**DISAFFILIATION (PRIMARY VOTERS).** (§17-9-27) Persons intending to vote in a primary must be disaffiliated from the other party (If a member) 90 days prior to the primary.
June 27, 28, 29	**DECLARATIONS.** Filing of declarations of candidacy for party primaries. (§17-14-1) Statewide offices file with Secretary of State. General assembly and local offices file with local board of canvassers.
June 27, 28, 29	**DECLARATIONS (INDEPENDENT CANDIDATES).** File declarations for November general election. (§17-14-1) Statewide offices file with Secretary of State. General assembly and local offices file with local board of canvassers.
June 30	**DISTRICT ENDORSEMENTS.** District committees file with local boards of canvassers list of candidates having district committee endorsement (Senatorial and Representative District Committees of the City of Providence file with Secretary of State). (§17-12-11) To be filed not later than the day after the final day for filing declarations of candidacy.
June 30	**CITY/TOWN/WARD ENDORSEMENTS.** City, town, and ward committees file with local boards of canvassers lists of local candidates having committee endorsement. (§17-12-11) To be filed not later than one day after the final day for filing declarations of candidacy.
July 1	**STATE COMMITTEE ENDORSEMENTS.** State committee to notify the Secretary of State of the endorsement of candidates to be voted upon by the state at large or by congressional district. (§17-12-4) To be filed not later than the second day after the final day for filing declarations of candidacy.

July 1	**STATE COMMITTEE ENDORSEMENTS.** State committee to file with local boards of canvassers lists of candidates having committee endorsement when city, town, or district committees have failed or neglected to do so. (§17-12-4) To be filed within 24 weekday hours after city, town, or district committees have failed to endorse.
July 6	**NOMINATION PAPERS.** Party nominees or designees and independent candidates obtain nomination papers. (§17-14-4) Candidates for statewide offices obtain from Secretary of State (Senatorial and Representative District Committees of the City of Providence obtain from the Secretary of State). General assembly and local offices obtain from local board of canvassers. To be done within 2 business days of the final day of filing of endorsements. (July 1 is a business day, July 2 is a Saturday, July 3 is a Sunday and July 4 is a holiday, July 5 is a business day). (§17-1-7) Persons other than candidates picking up nomination papers from the Secretary of State (100 North Main Street, Providence, RI) must have written authorization from the candidate.
July 15	**NOMINATION PAPERS (COMPLETED).** All party nominees or designees and independent candidates submit completed nomination papers to local boards of canvassers. (§17-14-11) To be filed before 60th day before primary.
July 18 *(LAST DAY)*	**NOMINATION PAPERS (OBJECTIONS-LOCAL OFFICES).** Final date to file objections to party nominees or designees and independent candidates nomination papers for local offices. (§17-14-13) Objections may be filed with the Secretary of State or the local board of canvassers as the case may be the next business day after the final date for filing nomination papers.
July 18 *(LAST DAY)*	**NOMINATION WITHDRAWALS.** Date to file withdrawals from party nominations and independent candidates. To be filed where nomination papers were filed. (§17-14-15) Note: In the event an objection has been filed then withdrawal to be filed within 24 hours of decision.

NOTES

July 20 *(LAST DAY)*	**NOMINATION PAPERS (OBJECTIONS).** Local boards of canvassers to make decisions on objections to nomination papers. (§17-14-14) Decisions to be made within 2 days of objection, exclusive of Sundays and holidays.
July 21 *(LAST DAY)*	**NOMINATION PAPERS (CERTIFICATION).** Last day for local boards of canvassers to file primary nomination papers for state offices and certifications for local offices with the Secretary of State. (§17-14-12) Local board to file no later than 54 days prior to the primary.
July 22	**NOMINATION PAPERS (OBJECTIONS-STATE OFFICES).** Objections to be filed for primary candidates and independent candidates for state offices. (§17-14-13) Objections may be filed with the Secretary of State or the local board of canvassers as the case may be the next business day after the final date for filing nomination papers.
July 22	**NOMINATION WITHDRAWALS - STATE OFFICES.** Date to file withdrawals from party nominations and independent candidates for state offices. To be filed where nomination papers were filed. (§17-14-15) Note: In the event an objection has been filed then withdrawal to be filed within 24 hours of the decision.
July 25	**NOMINATION PAPERS (OBJECTIONS-STATE OFFICES-DECISIONS).** Board of Elections to make decisions on objections to primary and independent candidates nomination papers for state offices. (§17-14-14) Decisions to be made within 2 days of objections, exclusive of Sunday and holidays.
August13 *(LAST DAY)*	**REGISTRATION PRIMARY VOTER.** Final date for voter registration for party primary elections. (§17-1-3) Registration must be made 30 days prior to the primary elections. August 14 is a Sunday. (§17-1-7) (§17-9-3)
August 13 *(LAST DAY)*	**CANVASS NOTICE.** Local boards of canvassers to post and advertise notice of canvass.

	(§17-10-5) To be posted and advertised at least 10 days prior to canvass.
August 15	**VOTER LISTS (PRELIMINARY).** Local boards of canvassers to prepare and post preliminary lists of voters eligible to vote in the primaries. (§17-10-3) To be posted forthwith after close of voter registration for primaries. August 14 is a Sunday. (§17-1-7)
August 22	**VOTER LISTS (PRELIMINARY) (ERRONEOUSLY INCLUDED OR OMITTED).** Affidavits to be filed with local boards of canvassers by persons claiming that his or her name has been erroneously included or omitted from the preliminary voting list. (§17-13-2) To be done within 5 days of posting of preliminary voting list. August 20 is a Saturday, August 21 is a Sunday. (§17-1-7)
August 23	**MAIL BALLOT APPLICATIONS.** Final date to apply for a mail ballot application for party primaries. (§17-20-8) To be received by local boards of canvassers 21 days prior to party primaries.
August 23 *(NOT LATER THAN)*	**VOTER LISTS.** Local boards of canvassers are to canvass and correct voting lists. (§17-10-5) To be completed before the 20th day prior to the party primaries.
August 24 *(NOT LATER THAN)*	**VOTING LOCATIONS (PARTY PRIMARIES).** Local boards of canvassers to select voting locations for party primaries. (§17-15-13) To be done at least 20 days prior to the party primaries.
August 25	**VOTING LISTS (POSTING FINAL) (PARTY PRIMARIES).** Local boards of canvassers to post final corrected copies of voting lists for party primaries. (§§17-10-5; 17-10-14) To be done forthwith after the 20th day preceding the party primaries.
August 26 *(NOT LATER THAN)*	**MAIL BALLOTS - CERTIFICATION.** Local boards of canvassers to certify mail ballot applications. (§17-20-10) Local boards of canvassers to certify to the Secretary

1994 ELECTIONS CALENDAR

	of State no later than 18 days prior to the party primaries.
September 2 *(NOT LATER THAN)*	**PARTY PRIMARIES - OFFICIALS.** Local boards of canvassers to appoint officials for party primaries. (§§17-15-13; 17-11-11) Appointments to be made from lists provided by city and town democratic and republican committees at least 10 days prior to the party primaries. September 3 is a Saturday.
September 5 *(NOT LATER THAN)*	**PARTY PRIMARIES - POSTING NOTICE.** Local boards of canvassers to post notice of party primaries in each voting district. (§17-15-17) To be done at least 8 days prior to party primaries. Local boards of canvassers may substitute posting of notices by publication in the newspaper. September 5th is a holiday, therefore posting should be done prior to this date.
September 6	**PARTY PRIMARIES - OFFICIALS.** Local boards of canvassers to appoint wardens or moderators, clerks, supervisors, watchers, checkers, and runners. (§17-15-13) To be appointed at least 7 days prior to party primaries.
September 12 *(NOON)*	**EMERGENCY BALLOT APPLICATIONS.** Final date for emergency ballot applications for party primaries. (§17-20-8) To be received by local boards of canvassers not later than noon, and to be accompanied by proper certificate(s).
SEPTEMBER 13	**PARTY PRIMARIES** (§17-15-1)
September 13 *(9:00 PM)*	**MAIL BALLOTS.** Final date for receipt of mail ballots by Board of Elections for party primaries. (§17-20-16) Must be received by the Board of Elections at 50 Branch Avenue, Providence, RI not later than 9:00 PM.
September 14	**TABULATION OF RETURNS.** Local boards of canvassers to tabulate city and town party primary returns and announce results. (§17-15-30) Certificate of nomination or election not to be issued until expiration of period for requesting recount, and if recount is requested, following decision thereon.

September 14 *(4:00 PM)*	**RECOUNT REQUESTS.** Final date for candidates to request Board of Elections to conduct a recount of votes upon a voting machine or paper ballots cast at a specific voting location or locations, or for filing other protests. (§17-15-34) Must be filed not later than 4:00 PM on the day following the party primaries.
September 16	**FILLING VACANCIES.** Final date for filling vacancies caused whenever a nominee removes himself or herself from the jurisdiction of the district or as a candidate for the office which the nominee seeks election. (§17-15-38) In the event of death the vacancy can be filled at any time.
September 16 *(4:00 PM)*	**LOCAL CANDIDATES AND QUESTIONS.** Local boards of canvassers to certify to the Secretary of State the names and addresses of candidates for each office and the party name under which they were nominated. The local board of canvassers shall also certify to the Secretary of State a copy of each question to be submitted to the electors of the city or town. (§17-19-7) To be done not later than 4:00 PM of the third day following the date of the party primaries.
September 19	**CERTIFICATES OF NOMINATION.** Final date for local boards of canvassers to issue certificates of nomination. (§17-15-37) To be done not later than the fourth day after the party primaries. In the event of a protest, the local boards of canvassers shall be allowed an additional 48 hours. September 17 is a Saturday, September 18 is a Sunday. (§17-1-7)
September 19 *(4:00 PM)*	**CERTIFICATES OF NOMINATION.** Final date for local boards of canvassers to file with city or town clerks certified copies of certificates of nomination. (§17-15-37) To be done not later than 4:00 PM on the fourth day after the party primaries. In the event of a protest, the local boards of canvassers shall be allowed an additional 48 hours. September 17 is a Saturday, September 18 is a Sunday. (§17-1-7)
September 19 *(4:00 PM)*	**STATE AND CITY/TOWN NOMINATIONS.** Board of Elections and local boards of canvassers to file with the Secretary of State certified copies of certificates of nomination issued to candidates.(§17-15-36)

1994 ELECTIONS CALENDAR

	To be done not later than 4:00 PM on the fifth day after the date of the party primaries. In the event of a protest the Board of Elections and the local boards of canvassers shall be allowed an additional 48 hours.
September 20	**CITY/TOWN NOMINATIONS.** City and town clerks to file certified copies of certificates of nomination with the Secretary of State for candidates in the party primaries. (§17-15-37) City and town clerks to file within 24 hours of receipt.
October 8	**REGISTRATION - GENERAL ELECTION.** Final date for voter registration for the general election. (§17-1-3) Registration must be made 30 days prior to the general election. October 9 is a Sunday. (§17-1-7) (§17-9-3)
October 8 *(NOT LATER THAN)*	**CANVASS NOTICE.** Local boards of canvassers to post and advertise notice of canvass. (§17-10-5) To be posted and advertised at least 10 days prior to the canvass.
October 11	**VOTER LISTS (PRELIMINARY).** Local boards of canvassers to prepare and post preliminary lists of voters eligible to vote in the general election. (§17-10-3) To be posted forthwith after close of voter registration for the general election. October 9 is a Sunday, October 10 is a holiday. (§17-1-7)
October 14 *(NOT LATER THAN)*	**PARTY CONVENTIONS** (§17-12-13)
October 18	**MAIL BALLOT APPLICATIONS.** Final date for mail ballot applications for the general election. (§17-20-8) To be received by local boards of canvassers 21 days prior to the general election.
October 18 *(NOT LATER THAN)*	**VOTER LISTS.** Local boards of canvassers are to canvass and correct voting lists. (§17-10-5) To be completed before the 20th day prior to the general election.

October 19 *(NOT LATER THAN)*	**GENERAL ELECTION - OFFICIALS.** Local boards of canvassers to appoint officials for the general election. (§§17-11-11; 17-11-13) Appointments to be made from lists provided by city and town democratic and republican committees at least 20 days prior to the general election.
October 21 *(NOT LATER THAN)*	**MAIL BALLOTS - CERTIFICATION.** Local boards of canvassers to certify mail ballot applications. (§17-20-10) Local boards of canvassers to certify to the Secretary of State no later than 18 days prior to the general election.
November 1	**WARRANTS - POSTING.** Final date for city and town clerks to issue and post warrants notifying of the general election. (§17-18-3) To be issued and posted 7 days prior to election day.
November 7 *(NOON)*	**EMERGENCY BALLOT APPLICATIONS.** Final date for emergency ballot applications for the general election. (§17-20-8) To be delivered to local boards of canvassers not later than noon, and to be accompanied by proper certificate(s).
NOVEMBER 8	**ELECTION DAY** (§17-18-5)
November 8 *(9:00 PM)*	**MAIL BALLOTS.** Final date for receipt of mail ballots by Board of Elections for general election. (§17-20-16) Must be received by the Board of Elections at 50 Branch Avenue, Providence, RI not later than 9:00 PM.
January 1995	**COMMITTEES.** City, town, and district committees to organize. (§17-12-9)
Within 10 days of organization (February 10, 1995 last day)	**COMMITTEES (OFFICERS).** City, town, and district committees, after organization, file lists of officers with the Secretary of State and local boards of canvassers.

1994 CAMPAIGN FINANCE CALENDAR

January 31 *(NOT LATER THAN)*	**TREASURER.** Designation of campaign treasurer by each state and municipal committee of a political party. (§17-25-9)
March 1	**ANNUAL REPORTS.** Each state and municipal committee of a political party must file an annual report setting forth in the aggregate all contributions received and expenditures made during the previous calendar year. (§17-25-7(b))
March 31	**QUARTERLY ON-GOING REPORTS.** Reports due from candidates, political parties, and political action committees. (§§§17-25-11; 17-25-3(a); 17-25-3(h)) Includes those who have raised and/or expended funds and those who have filed form CCER-3 with the Board of Elections.
June 27, 28, 29 *(4:00 PM)*	**MATCHING FUNDS.** Candidates for any general office choosing matching funds must file form MPF-1 by 4:00 PM. (§17-25-19) Candidates not filing form MPF-1 by 4:00 PM on the day of filing (§17-1-7) cannot choose matching funds at a later date.
June 30	**QUARTERLY ON-GOING REPORTS.** Reports due from candidates, political parties, and political action committees. (§§§17-25-11; 17-25-3(a); 17-25-3(h)) Includes those who have raised and/or expended funds and those who have filed form CCER-3 with the Board of Elections.
August 16	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 28 days prior to the party primaries. (§17-25-11(a)(2)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.
September 6	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 7 days prior to the party primaries. (§17-25-11(a)(2)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.

September 30	**QUARTERLY ON-GOING REPORTS.** Reports due from candidates, political parties, and political action committees. (§§§17-25-11; 17-25-3(a); 17-25-3(h)) Includes those who have raised and/or expended funds and those who have filed form CCER-3 with the Board of Elections.
October 11	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 28 days after the party primaries. (§17-25-ll(a)(3)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.
October 11	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 28 days prior to the general election. (§17-25-ll(a)(2)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.
November 1	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 7 days prior to the general election. (§17-25-ll(a)(2)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.
December 6	**TREASURERS/CANDIDATES REPORT.** Treasurers for state and municipal committees of political parties, and political action committees must file reports 28 days after the general election. (§17-25-ll(a)(3)) This includes candidates as defined by §17-25-3(a). Also includes candidates who do not have a treasurer.
December 31	**QUARTERLY ON-GOING REPORTS.** Reports due from candidates, political parties, and political action committees. (§§§17-25-11; 17-25-3(a); 17-25-3(h)) Includes those who have raised and/or expended funds and those who have filed form CCER-3 with the Board of Elections.

QUALIFICATIONS FOR ELECTIVE OFFICE

Office	Age	State Residence	US Citizen	Term	
				Years	# of Terms
President	35	14 years in US	yes natural born	4	2
Vice President	35	14 years in US	yes natural born	4	no limit
US Senator	30	yes	9 years	6	no limit
US Representative	25	yes	7 years	2	no limit
Governor	18	30 days	yes	4*	no limit
Lieutenant Governor	18	30 days	yes	4*	no limit
Secretary of State	18	30 days	yes	4*	no limit
General Treasurer	18	30 days	yes	4*	no limit
Attorney General	18	30 days	yes	4*	no limit
State Senator	18	30 days	yes	2	no limit
State Representative	18	30 days	yes	2	no limit
Speaker of the House	18	30 days	yes	2	no limit
Presidential Elector	18	30 days	yes		

*Four year terms effective with the November 1994 General Election.

1994 ELECTION CALENDAR HIGHLIGHTS

OPENING TIMES OF POLLS
(§17-18-10)

Barrington	7:00 AM
Bristol	7:00 AM
Burrillville	9:00 AM
Central Falls	7:00 AM
Charlestown	7:00 AM
(for the biennial general election and 9:00 AM for all other elections)	
Coventry	7:00 AM
Cranston	7:00 AM
Cumberland	8:00 AM
East Greenwich	7:00 AM
East Providence	7:00 AM
Exeter	7:00 AM
Foster	8:00 AM
Glocester	7:00 AM
Hopkinton*	6:00 AM
Jamestown	7:00 AM
(for the biennial general election and 8:00 AM for all other elections)	
Johnston	8:00 AM
Lincoln	8:00 AM
Little Compton*	7:00 AM
Middletown	8:00 AM
(and 7:00 AM for Presidential Elections only)	
Narragansett	7:00 AM
Newport	8:00 AM
New Shoreham	9:00 AM
North Kingstown	7:00 AM
(for the biennial general election and 8:00 AM for all other elections)	
North Providence	7:00 AM
North Smithfield	8:00 AM
Pawtucket	7:00 AM
Portsmouth	7:00 AM
Providence	7:00 AM
Richmond*	6:00 AM
Scituate	7:00 AM
Smithfield	7:00 AM
South Kingstown	7:00 AM
Tiverton	8:00 AM
Warren	8:00 AM
Warwick	7:00 AM
Westerly*	6:00 AM
West Greenwich	7:00 AM
West Warwick	7:00 AM
Woonsocket	8:00 AM

* Provided, however, that in all special or primary elections in the towns of Hopkinton, Little Compton, Richmond, and Westerly polls shall open at 9:00 AM.

CLOSING TIMES OF POLLS
(§17-18-11)

The polls in all cities and towns will remain open for voting until 9:00 PM. Any person eligible to vote who is in line to vote at 9:00 PM will be allowed to cast their vote before the polls close.

MUNICIPAL ELECTIONS

Most cities and towns hold their municipal elections at the same time as the general statewide election. The following communities are exceptions:

CENTRAL FALLS	Held on the first Tuesday after the first Monday in November in odd-numbered years, biennially (November 7, 1995).
CRANSTON	Held on the first Tuesday after the first Monday in November in even-numbered years, biennially for council seats, quadrennially for the office of Mayor (November 5, 1996).
JAMESTOWN	Held on the first Wednesday in May in odd-numbered years (May 3, 1995).
LINCOLN	Held on the first Tuesday in June in odd-numbered years (June 6, 1995).
NEWPORT	Held on the first Tuesday after the first Monday in November in odd-numbered years (November 7, 1995).
NORTH PROVIDENCE	Held on the first Tuesday after the first Monday in November in even-numbered years, biennially for council seats, quadrennially for the office of Mayor (November 8, 1994).
NORTH SMITHFIELD	Held on the first Tuesday after the first Monday in November in odd-numbered years (November 7, 1995).
PAWTUCKET	Held on the first Tuesday after the first Monday in November in odd-numbered years (November 7, 1995).
PROVIDENCE	Held on the first Tuesday after the first Monday in November in even-numbered years, quadrennially (November 8, 1994).
WOONSOCKET	Held on the first Tuesday after the first Monday in November in odd-numbered years (November 7, 1995).

LOCAL BOARDS OF CANVASSERS

Barrington	Town Hall, 283 County Rd.	247-1900
Bristol	Town Hall, 10 Court St.	253-7000
Burrillville	Town Hall, 105 Main St., Harrisville	568-4300
Central Falls	City Hall, 580 Broad St.	727-7450
Charlestown	Town Hall, 4540 South County Trail	364-1200
Coventry	Town Hall, 1670 Flat River Rd.	822-9150
Cranston	City Hall, 869 Park Ave.	461-1000
Cumberland	Town Hall, 45 Broad St.	728-2400
East Greenwich	Town Hall, 111 Peirce St.	886-8603
East Providence	City Hall, 145 Taunton Ave.	434-3311
Exeter	Town Hall, 675 Ten Rod Rd.	294-3891
Foster	Town Hall, 181 Howard Hill Rd.	392-9200
Glocester	Town Hall, 1145 Putnam Pike	568-6206
Hopkinton	Town Hall, 1 Town House Rd.	377-7777
Jamestown	Town Hall, 93 Narragansett Ave.	423-7200
Johnston	Town Hall, 1385 Hartford Ave.	351-6618
Lincoln	Town Hall, 100 Old River Rd.	333-1100
Little Compton	Town Hall, 40 Commons	635-4400
Middletown	Town Hall, 350 East Main Rd.	849-5540
Narragansett	Town Hall, 25 Fifth St.	789-1044
Newport	City Hall, 43 Broadway	846-9600
New Shoreham	Town Hall, Old Town Rd.	466-3200
North Kingstown	Town Hall, 80 Boston Neck Rd.	294-3331
North Providence	Town Hall, 2000 Smith St.	232-0900
North Smithfield	Town Hall, 1 Main St., Slatersville	767-2200
Pawtucket	City Hall, 137 Roosevelt Ave.	722-8989
Portsmouth	Town Hall, 2200 East Main Rd.	683-3157
Providence	City Hall, 1 Dorrance St.	421-0495
Richmond	Town Hall, 5 Richmond Townhouse Rd., Wyoming	539-2497
Scituate	Town Hall, 195 Danielson Pike, North Scituate	647-7466
Smithfield	Town Hall, 64 Farnum Pike, Esmond	233-1000
South Kingstown	Town Hall, 180 High St., Wakefield	789-9331
Tiverton	Town Hall, 343 Highland Rd.	625-6700
Warren	Town Hall, 514 Main St.	245-7340
Warwick	City Hall, 3275 Post Rd.	738-2000
West Greenwich	Town Hall, 280 Victory Highway	397-5016
West Warwick	Town Hall, 1170 Main St.	822-9200
Westerly	Town Hall, 45 Broad St.	348-2500
Woonsocket	City Hall, 169 Main St.	762-6400

CHAPTER 1
GENERAL PROVISIONS

SECTION.
17-1-1. Short title.
17-1-2. Definitions.
17-1-2.1. Signature identification.
17-1-3. Eligibility to vote.
17-1-3.1. Residence for voting purposes.
17-1-3.2. Identification of voter at time of registration.
17-1-3.3. Verification of residence.
17-1-3.4. Procedure on challenge of registration.
17-1-3.5. Penalty for unsubstantiated challenge.
17-1-4. Appeal of ruling by board of canvassers.
17-1-5. Effect of special statutes.
17-1-5.1. Municipal and state employees holding elective public office.
17-1-6. Scope of title.
17-1-7. Uniform deadlines.
17-1-7.1. Filings to be originals.
17-1-8. Severability.

17-1-1. Short title. — This title shall be known and may be cited as the "Election Law".

History of Section.
G.L. 1956, § 17-1-1; P.L. 1958, ch. 18, § 1.

17-1-2. Definitions. — For the purposes this title, except as may otherwise be required by the context:

(a) "Election" shall mean the filling of any public office or the determination of any public question by vote of the electorate, and shall include without limitation thereto any state, town, or city office or question, and any political party primary election for the nomination of any candidate for public office; except that it shall not include a financial town meeting or a meeting to elect officers of a fire, water, or sewer district;

(b) "General election" shall mean an election held on the first Tuesday next after the first Monday in November in even numbered years for the election of members of the general assembly and for the election of general officers;

(c) "General officer" shall mean an officer designated as a general officer by chapter 2 of this title;

(d) "Local election" shall mean any election limited to the electorate of any city or town, or any part thereof, at which any city, town, ward, or district officers are to be chosen, or any elective meeting at which a question is to be submitted to the voters of a city, town, or any subdivision thereof but it shall not include a financial town meeting;

(e) "Local board" shall mean a town or city board of canvassers, board of canvassers and registration, canvassing authority, or any other local board, commission, or officer empowered by law to have custody of the permanent registration records;

(f) "Political party" or "party" shall mean any political organization which at the preceding general election nominated a candidate

for governor, and whose candidate for governor at the election polled at least five percent (5%) of the entire vote cast in the state for governor;

(g) "Primary election" shall mean any election to select the candidates of a political party;

(h) "Proposition" or "public question" shall mean any question put to referendum of the electorate of the entire state or any part thereof;

(i) "Polling place" shall mean the room in which any election or elective meeting is conducted;

(j) "State board" shall mean the state board of elections constituted pursuant to this title;

(k) "Special election" shall mean any election other than a local election or primary election which is not held on a general election day;

(*l*) "Vacancy in office" shall mean the condition resulting from any failure to elect or appoint an eligible and qualified person to public office, or the failure of any person duly elected or appointed to qualify, or from the death, resignation, or removal of an incumbent prior to the expiration of his or her term of office and where no fixed term is prescribed upon the death, resignation, or removal;

(m) "Voting list" shall mean the original permanent registration cards provided and maintained in locked binders pursuant to this title and in the event of the loss, destruction, or unavailability of any of these cards, the duplicate permanent registration cards provided and maintained pursuant to this title to the extent that the original card or cards shall have been lost, destroyed, or unavailable and until it or they may be replaced;

(n) "Party member" shall mean any person who is a member of a designated political party pursuant to § 17-9-26.

(o) "Qualified voter" shall mean any person who is eligible to vote under the requirements of age, residence, and citizenship prescribed by the state constitution and who is duly registered to vote, or who is exempt from registration, pursuant to this title, and who is not otherwise disqualified as a voter pursuant to law;

(p) "Party voter" shall mean any qualified voter who is eligible to vote at the primary election of a political party;

(q) "State election" shall mean any election at which any presidential electors, senator or representatives in congress, general officers of the state, or members of the general assembly are to be chosen, or at which a public question or an amendment to the Constitution is submitted to the electors of the state;

(r) "Warden" shall include "moderator," and vice versa;

(s) Words importing the masculine gender shall include the feminine gender;

(t) "State officer" shall mean the governor, lieutenant governor, secretary of state, attorney general, general treasurer, state senator, and state representative.

CHAPTER 8

LOCAL CANVASSING AUTHORITIES

SECTION.
17-8-1. Appointment of bipartisan authority.
17-8-2. Term and qualifications for office.
17-8-3. Compensation.
17-8-4. Oath of office of members.
17-8-5. Local boards — Powers and duties — Quorum.
17-8-6. Fees in cities other than Cranston and Woonsocket.
17-8-7. Power of boards to administer oaths and subpoena evidence — Self incrimination — False swearing.
17-8-8. General penalty clause.
17-8-9. Local boards open on election day.

17-8-1. Appointment of bipartisan authority. — The legislative body of each city and town shall appoint a bipartisan canvassing authority of three (3) qualified electors of the city or town, not more than two (2) of whom shall belong to the same political party and may appoint two (2) alternate members, not more than one of whom shall belong to the same political party. At any meeting of the canvassing authority at which a member is to be absent, the member may request that an alternate replace him/her for that meeting provided, however, that the alternate member must be of the same political party as the member. The mayor or the president of the town council shall nominate the members of the canvassing authority from lists of party voters submitted by the respective chairmen of the city or town political committee, which lists shall contain the names of five (5) times the number of persons to be appointed. If the legislative body shall refuse to approve the nomination of any person to the canvassing authority, the mayor or the president shall submit to the legislative body another person named on one of the lists, and so on until a person shall be appointed; provided, however, if the chairman of the city or town committee of a political party entitled to an appointment shall fail or refuse to submit a list as aforesaid, the mayor or the president shall nominate any party voter of the political party entitled to the appointment.

History of Section.
P.L. 1956, ch. 3754, § 1; G.L. 1956, § 17-8-2; G.L. 1956, § 17-8-1; P.L. 1958, ch. 18, § 1; P.L. 1988, ch. 151, § 1.

17-8-2. Term and qualifications for office. — Each member of a local canvassing authority shall be appointed to serve for a term of six (6) years beginning on the first Monday of March succeeding the date of his or her appointment and until his or her successor is elected and qualified. No person shall be appointed or serve as a member of the authority who is an officer or employee of the United States or of this state or of any city or town of this state, provided that in any city a member of the authority may act as clerk thereof. Any member of the authority who becomes a candidate for election to any public office and who fails to file a declination of the candidacy within the time allowed by law, shall be disqualified from hold-

ing membership upon the authority and his or her successor shall be elected forthwith.

History of Section.
P.L. 1951 (s. s.), ch. 2870, § 18; G.L. 1956, § 17-8-15; G.L. 1956, § 17-8-2; P.L. 1958, ch. 18, § 1; P.L. 1988, ch. 84, § 74.

17-8-3. Compensation. — Each member of a local board shall receive such compensation as may be provided by the governing body of each city or town; provided that in the several towns where no other provision is made for compensation each member of the local board shall be paid by that member's respective town five dollars ($5.00) per day for every day's attendance in the discharge of the member's respective duties, and the town clerks shall be paid, in addition, legal fees for making out and recording the several lists and returns required by this title.

History of Section.
G.L. 1896, ch. 8, § 21; G.L. 1909, ch. 8, § 21; G.L. 1909, ch. 8, § 20; P.L. 1910, ch. 640, § 2; G.L. 1923, ch. 8, § 20; G.L. 1938, ch. 313, § 20; P.L. 1940, ch. 817, § 2; P.L. 1951 (s. s.), ch. 2870, § 34; G.L. 1956, §§ 17-8-19, 17-8-21; G.L. 1956, § 17-8-3; P.L. 1958, ch. 18, § 1.

17-8-4. Oath of office of members. — Each person appointed as a member of a local board shall before entering upon his or her duties be sworn to the faithful performance thereof and a record of the oath shall be kept by the clerk of the board.

History of Section.
P.L. 1951 (s.s.), ch. 2870, § 18; G.L. 1956, § 17-8-16; G.L. 1956, § 17-8-4; P.L. 1958, ch. 18, § 1.

17-8-5. Local boards — Powers and duties — Quorum. — (a) Each canvassing authority shall have and exercise the functions, powers, and duties provided for local boards by this title or by any law not inconsistent herewith. It shall:

(1) Select one of its members as presiding officer and another as clerk of the board; provided that nothing herein shall be deemed to affect the powers and duties of the town clerk who shall be ex officio the clerk of the respective town canvassing authorities, provided further that in the cities of Pawtucket, Central Falls, Newport, Woonsocket, Cranston, and Warwick, the clerk shall be designated at the time of his or her election or appointment;

(2) Have and discharge all of the functions, powers, and duties of the town council concerning nominations, elections, registration of voters and canvassing rights, the preparing and correcting of voting lists, and other matters relating thereto, which powers are transferred to the local board;

(3) Make or furnish all returns or other things required by law to be made or furnished to or by city clerks, boards of canvassers, and district clerks, relative to any matter within the purview of this title;

17-14-2. Candidate required to be qualified voter in primary. — No person shall be eligible to file a declaration of candidacy, or be eligible to be a candidate or be eligible to be voted for or to be nominated or elected in a party primary unless such person shall, at the time of filing such declaration be qualified to vote in a primary within the district for the office which he or she seeks.

History of Section.
P.L. 1947, ch. 1886, § 7; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 6; G.L. 1956, § 17-14-2; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 200, § 1; P.L. 1968, ch. 247, § 1.

17-14-2.1. Party candidates not eligible for independent nomination and independent candidates not eligible for party nomination. — No person who shall have filed a declaration of candidacy as an independent candidate pursuant to § 17-14-1 for an office for which a party candidate may be nominated pursuant to this chapter shall be eligible to file a declaration of candidacy as a party candidate for the same office, and no person who shall have filed a declaration of candidacy as a party candidate pursuant to § 17-14-1 for an office for which an independent candidate may be nominated pursuant to this chapter shall be eligible to file a declaration of candidacy as an independent candidate for the same office.

History of Section.
P.L. 1980, ch. 404, § 1; P.L. 1937, ch. 389, § 8.

17-14-3. Candidates for one or more offices. — Nothing contained in §§ 17-14-1 and 17-14-2 shall be construed to prevent a voter otherwise qualified from being a candidate in the primary of that voter's party for one or more offices either "state" or "local" or both, provided that voter's name shall be printed on the official ballots or ballot labels.

History of Section.
P.L. 1947, ch. 1886, § 7; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 6; G.L. 1956, § 17-14-3; P.L. 1958, ch. 18, § 1.

17-14-4. Preparation of nomination papers for candidates — Combination of endorsed candidates — Furnishing of nomination papers to candidates. — Upon receipt of the declarations referred to in § 17-14-1 within two (2) business days of the final date for filing endorsements, the secretary of state for statewide candidates and the local board for general assembly and local candidates shall prepare nomination papers for each person who has filed a declaration of candidacy as provided in § 17-14-1; provided, however, that a minimum of three (3) sets of nomination papers shall be prepared for each candidate whose name appears on nomination papers containing the name of a candidate for general assembly and for local office, and provided further, however, that nomination papers for voters from the city of Providence for the offices enumerated

17-14-5. [Repealed.]

Repealed Sections. This section (P.L. 1947, ch. 1886, § 8; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 7; G.L. 1956, § 17-14-5; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 3; P.L. 1962, ch. 191, § 2; P.L. 1974, ch. 36, § 2), concerning retention of declarations and delivery of nomination papers, was repealed by P.L. 1987, ch. 389, § 7, effective June 1, 1988.

17-14-6. Statement at head of nomination papers. — At the head of the space on the nomination papers where voters are to endorse their approval of the candidates shall be printed the following:

"Each of the signers of this paper by so signing severally certifies that he or she is a voter in the area from and for which the endorsed candidate (or candidates) seek(s) to be elected."

History of Section.
P.L. 1947, ch. 1886, § 8; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 7; P.L. 1950, ch. 2553, § 1; G.L. 1956, § 17-14-6; P.L. 1958, ch. 18, § 1; P.L. 1980, ch. 388, § 1.

17-14-7. Number of signers required for nomination papers. — (a) *United States senator or governor.* The nomination papers of a candidate for the party nomination or an independent candidate for presidential elector, United States senator or governor shall be signed, in the aggregate, by at least one thousand (1,000) voters.

(b) *Congressman.* The nomination papers of a candidate for the party nomination or an independent candidate for representative in congress shall be signed, in the aggregate, by at least five hundred (500) voters.

(c) *General state offices.* The nomination papers of a candidate for the party nomination or an independent candidate for any of the general offices of the state, excluding governor, shall be signed, in the aggregate, by at least five hundred (500) voters.

(d) *State senator.* The nomination papers of a candidate for a party nomination or independent candidate for senator in any senatorial district shall be signed, in the aggregate, by at least one hundred (100) voters of the senatorial district.

(e) *State representative.* The nomination papers of a candidate for party nomination or an independent candidate for a member of the house of representatives from any representative district shall be signed, in the aggregate, by at least fifty (50) voters of the representative district.

(f) *City offices.* The nomination papers of a candidate for party nomination or an independent candidate for any local office to be filled by the voters of any city at large shall be signed, in the aggregate, by at least two hundred (200) voters of the city, provided, however, that in the city of Providence at least five hundred (500) signatures shall be required.

(g) *Voting district moderator or clerk.* The nomination papers for a candidate for voting district moderator or clerk in any town shall

be signed, in the aggregate, by at least ten (10) voters of the voting district.

(h) *Other offices.* The nomination papers of a candidate for party nomination for other offices covered by § 17-15-7, or for the election of delegates or for unendorsed party committee candidates, shall be signed, in the aggregate, by fifty (50) voters.

History of Section.
P.L. 1947, ch. 1886, § 9; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-14-7; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 10; P.L. 1982, ch. 160, § 1; P.L. 1987, ch. 389, § 8; P.L. 1988, ch. 435, § 1.

17-14-8. Signing of nomination papers. — Not all endorsers of a candidate need sign on the same nomination papers, but endorsers who are voters in different cities and towns shall not sign the same sheet. Every voter signing a nomination paper shall sign in person with his or her name, place of residence, and street number, as it appears on the voting list; provided, however, that the signature shall be accepted as valid if it can be reasonably identified to be the signature of the voter it purports to be; and provided, further, that a variation of the voter's signature by the insertion or omission of identifying titles or by the substitution of initials for the first or middle names or both shall not in itself be grounds for invalidation of the signature. Any voter who is unable to write may sign by making his or her mark (X) on the nomination paper in the presence of two (2) witnesses who shall subscribe their names on the paper as witnesses to the signing.

History of Section.
P.L. 1947, ch. 1886, § 10; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-14-8; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 271, § 1.

17-14-9. Number of papers signed by same voter. — A voter may sign any number of nomination papers for any office the voter may lawfully vote for at the general election.

History of Section.
P.L. 1947, ch. 1886, § 10; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-14-9; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 271, § 2.

17-14-10. Affidavit of person obtaining signatures. — Every person who shall obtain signatures of voters upon nomination papers shall under oath sign the following statement:

"I, _____, of _____, under oath, make affidavit and say that the signers of the within nomination paper (or papers) did so sign the paper (or papers) in my presence.

_____

State of Rhode Island

_____, Sc.

Subscribed and sworn to before me this _____ day of _____, A.D. 19____.

_____

Notary Public"

History of Section.
P.L. 1947, ch. 1886, § 8; P.L. 1950, ch. 2476, § 7; G.L. 1956, § 17-14-10; P.L. 1958, ch. 18, § 1.

17-14-11. Checking and certification of nomination papers — Challenge. — Each nomination paper for party and independent candidates shall be submitted before four o'clock (4:00) p.m. on the sixtieth day before the primary to the local board of the city or town where the signers appear to be voters or, in the case of special elections, on the twenty-eighth day before the primary. Provided, however, that nomination papers for independent presidential candidates and presidental candidates of political parties other than those defined in § 17-1-2(f) shall be filed not later than sixty (60) days prior to the general election. Each local board shall proceed forthwith to check signatures, on each nomination paper filed with it, against the voting list as last canvassed or published according to law. In the case of candidates for statewide office the local boards shall certify the number of names appearing thereon that are in conformity with the requirements of § 17-14-8 and after considering any challenge under this section shall file all nomination papers for the officers forthwith with the secretary of state. In the case of all other candidates the local boards shall certify a sufficient number of names appearing thereon that are in conformity with the requirements of § 17-14-8 to qualify the candidate for a position on the ballot and after considering any challenge under this section and, if necessary, certifying any additional valid names, shall file nomination papers for general assembly and state and district committee candidates forthwith with the secretary of state; provided, however, that nomination papers for local candidates shall be retained by the local board. If any candidate or the chairperson of any party committee questions the validity or authenticity of any signature on the nomination paper, the local board shall forthwith and summarily decide the question, and for this purpose, shall have the same powers as are conferred upon the board by the provisions of § 17-14-14. If any challenged signature is found to be invalid, for any reason in law, or forged, then the signature shall not be counted.

History of Section.
P.L. 1947, ch. 1886, § 11; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 8; G.L. 1956, § 17-14-11; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 3; P.L. 1974, ch. 36, § 3; P.L. 1978, ch. 271, § 1; P.L. 1981, ch. 375, § 1; P.L. 1987, ch. 389, § 8; P.L. 1991, ch. 145, § 1; P.L. 1991, ch. 194, § 2; P.L. 1991, ch. 277, § 2.

17-14-12. Filing of nomination papers. — All nomination papers for state offices or officers and all certified lists of candidates for local offices or officers shall be filed in the office of the secretary of state (the certified lists by the respective local boards), not later than fifty-four (54) days before the date of the primary held to nominate candidates for general election but when there is a primary to nominate candidates for any office mentioned in § 17-15-7 to be voted upon at a special election, all nomination papers and lists of local

candidates shall be filed in the office on or before the twenty-sixth day preceding the day of the special primary election. Nomination papers for independent presidential candidates and presidential candidates of political parties other than those defined in § 17-1-2(f) shall be filed in the office of the secretary of state by the local boards of canvassers not later than fifty-four (54) days before the date of the election.

History of Section.
P.L. 1947, ch. 1886, § 12; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 9; G.L. 1956, § 17-14-12; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 3; P.L. 1974, ch. 36, § 4; P.L. 1978, ch. 271, § 1; P.L. 1981, ch. 375, § 1; P.L. 1987, ch. 389, § 8; P.L. 1988, ch. 84, § 75; P.L. 1991, ch. 194, § 2; P.L. 1991, ch. 277, § 2; P.L. 1992, ch. 247, § 1.

17-14-12.1. Certification by local boards. — All certified lists of candidates for primary, regular and special elections, as well as all local questions to be voted on at such elections shall be in final form when certified to the secretary of state by the local boards. In all instances where there needs to be a reprinting, remailing or other such happening of the ballots for a community, except as provided in § 17-14-17, the cost of such reprinting, remailing or other happening shall be borne by the local community.

History of Section.
P.L. 1991, ch. 279, § 1.

17-14-13. Objections to eligibility of candidate or sufficiency of papers. — When nomination papers have been duly filed, and are in apparent conformity with § 17-14-11, they shall be conclusively presumed to be valid, unless written objections thereto are made as to the eligibility of the candidate or the sufficiency of the nomination papers or the signatures thereon. All objections shall be filed in the office of the secretary of state or of the local board, as the case may be, by four o'clock (4:00) p.m. on the next business day after the last day fixed for filing nomination papers in the appropriate office as heretofore provided. Nothing herein shall be construed to prevent the secretary of state or the local board, as the case may be, from disqualifying a candidate based on the determination of the secretary of state or the local board, acting on its own motion, that the candidate is ineligible or the nomination papers or the signatures thereon are invalid or insufficient.

History of Section.
P.L. 1947, ch. 1886, § 13; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-14-13; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 271, § 1; P.L. 1983, ch. 172, § 22; P.L. 1987, ch. 389, § 1.

in § 17-14-1 shall be furnished by the secretary of state. Nomination papers shall be prepared with the name of the candidate as it appears on the voting list notwithstanding that the candidate may have signed his or her declaration of candidacy other than as such candidate's name appears on the voting list. Candidates for nomination for different offices endorsed by the appropriate committee on any party shall be combined on the same nomination papers. The names of candidates for different offices not endorsed by the appropriate committee of any party shall not be combined on the same nomination papers. Combined nomination papers for endorsed candidates for general assembly and their respective committees shall be furnished by the local board of the general assembly candidate. Nomination papers shall be furnished to the local boards by the secretary of state and each shall bear the imprint of the state coat of arms and such additional language as required by law. Nomination papers shall be appropriately marked or color coded to indicate the different political parties, the endorsed and unendorsed candidates of those parties and independent candidates.

General assembly and local candidates for nomination may, at their own expense, have nomination papers duplicated. The signatures obtained on said duplicated nomination papers shall be considered valid if and only if, prior to any signatures being affixed, the duplicated nomination papers have been time-stamped by the secretary of state or local board of canvassers which issued the original nomination papers.

History of Section.
P.L. 1947, ch. 1886, § 8; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 7; G.L. 1956, § 17-14-4; P.L. 1958, ch. 18, § 1; P.L. 1962, ch. 191, § 1; P.L. 1978, ch. 271, § 1; P.L. 1987, ch. 389, § 8; P.L. 1988, ch. 97, § 1; P.L. 1988, ch. 376, § 1; P.L. 1989, ch. 389, § 1.

17-14-4.1. Party committees — Nomination papers unnecessary. — In the case of endorsed candidates for membership on all party committees, including state, town, city, district, or ward committees, nomination papers shall not be necessary. In this case the filing of the endorsed slate of candidates by the particular committee shall be sufficient to nominate the candidates. All non-endorsed candidates for membership on party committees shall be required to file declarations of candidacy and to obtain and file nomination papers in the same manner as other candidates for primary election.

History of Section.
P.L. 1987, ch. 389, § 9.

CHAPTER 15
PRIMARY ELECTIONS

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17-15-1. Date of primaries. — A primary election for the nomination of candidates for each political party shall be held in each voting district in the manner hereinafter provided on the second Tuesday after the first Monday in September in 1962 and in each even numbered year thereafter.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-1; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4.

17-15-2. Regular primary date falling on religious holiday. — In the event that the date for the holding of any primary election preceding any general state or municipal election as herein provided shall fall upon the day of a religious holiday the primary shall be held upon the next business day other than Saturday then following;

provided, however, that nothing in this section contained shall be deemed to invalidate a primary election once held.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1955, ch. 3581, § 1; G.L. 1956, § 17-15-2; P.L. 1958, ch. 18, § 1; P.L. 1967, ch. 200, § 1.

17-15-3. Special election primaries. — Party primary elections shall also be held for the purpose of nominating candidates for an office or offices to be elected at any special election. In the event of a special election, the state board shall fix the date or dates on which the various party primary elections shall be held, provided, however, that all the party primary elections shall have been held by the thirtieth day preceding the date fixed for the special election and provided further that the date or dates so fixed by the state board shall not be a religious holiday or Saturday.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-3; P.L. 1958, ch. 18, § 1; P.L. 1967, ch. 200, § 2.

17-15-4. Municipal primaries other than at time of general primaries. — In those cities and towns which now by law hold elections for city or town officers on a day other than the Tuesday after the first Monday in November biennially in each even year, a primary election for the nomination of the city or town officials shall be held and the local board shall fix the date thereof; provided, however, that the primary election shall have been held by the thirtieth day preceding the date fixed for the election, and provided further that the date so fixed by the local board shall not be a religious holiday or Saturday.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-4; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4; P.L. 1967, ch. 200, § 3.

17-15-5. Combination of voting districts. — Local boards shall have the power to combine two (2) or more voting districts within the same ward, and senatorial or representative district, when the absence of contests within the voting districts so combined makes this combination possible, and when so combined shall be treated as a voting district.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 2; G.L. 1956, § 17-15-5; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 11; P.L. 1990, ch. 151, § 2.

17-15-6. Conventions and caucuses replaced — Parties holding primaries — Forms. — The primary elections thus held shall replace the party conventions and caucuses for making the nominations herein provided for, but party conventions shall be held for such purposes as are authorized by § 17-12-13. Primaries shall

be held only by political parties. Except as herein otherwise provided, any and all forms prescribed by this chapter shall be prepared and provided by the secretary of state and shall be uniform throughout the state, wherever practicable.

History of Section.
P.L. 1947, ch. 1886, § 2; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 2; G.L. 1956, § 17-15-6; P.L. 1958, ch. 18, § 1.

17-15-7. Candidates nominated at primaries. — (a) At the primary elections there shall be nominated candidates for the following offices, if the offices are to be filled at the succeeding election:

(1) Senators in the congress of the United States.

(2) Representatives in the congress of the United States.

(3) General officers of the state.

(4) Senators in the general assembly from the respective senatorial districts.

(5) Representatives in the general assembly from the respective representative districts.

(6) Mayors for the respective cities.

(7) Members of the city or town councils from the respective towns, wards, and districts.

(8) All other city or town officials heretofore nominated by party caucus, convention, or party committees, whose offices are to be filled at the regular or special election next succeeding the primary, with the exception of candidates for presidential elector who shall be selected as hereinbefore provided.

(b) At the primary elections the members of ward, town, and district committees of the respective political parties shall be elected.

History of Section.
P.L. 1947, ch. 1886, § 3; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 3; G.L. 1956, § 17-15-7; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 11.

17-15-8. Listing of candidates on ballots and ballot labels. — The secretary of state shall forthwith upon receipt of the certificates provided for by chapter 14 of this title cause the proper ballots or ballot labels to be prepared for use in the various voting districts. Names and addresses of party candidates for a particular office shall be printed horizontally and alphabetically opposite and to the right of the names of the office they seek and shall not appear on the ballot more than once for the same office; provided, however, the names and addresses of candidates having the endorsement of their party committees shall be printed in the first column at the right of the title of the offices they seek and shall be marked with an asterisk (*); provided, further, however, that in the event that there be more candidates for a particular office than the voting machine can accommodate in the horizontal column, the names and addresses shall be continued in alphabetical order succeeding the last name at the extreme right of the column to the next horizontal column beneath the column. Names and addresses of candidates shall be printed

upon the ballots and ballot labels as such names appear on the voting list, notwithstanding that the candidate may have signed his or her declaration of candidacy other than as such candidate's name appears on the voting list.

History of Section.
P.L. 1947, ch. 1886, § 15; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 11; G.L. 1956, § 17-15-8; P.L. 1958, ch. 18, § 1; P.L. 1960, ch. 151, § 1; P.L. 1989, ch. 389, § 2; P.L. 1990, ch. 285, § 1.

17-15-9. Slate voting. — In a primary election no device shall be provided whereby a voter may by one operation vote for a slate of candidates.

History of Section.
P.L. 1947, ch. 1886, § 15, as enacted by P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 11; G.L. 1956, § 17-15-9; P.L. 1958, ch. 18, § 1.

17-15-10. Use of paper ballots. — Whenever in a particular voting district or districts it shall not be possible to include the names of all candidates on the ballot labels of the machine arranged according to the provisions of § 17-15-8, then the candidates for all offices except ward and town committees shall be placed upon the voting machines as prescribed by this chapter and for all the candidates for ward and town committees to be voted for in the district, the secretary of state shall prepare suitable paper ballots which shall be used. The paper ballots shall have the candidates' names in the same order as prescribed for ballot labels for voting machines as prescribed by this chapter.

History of Section.
P.L. 1947, ch. 1886, § 15; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 11; G.L. 1956, § 17-15-10; P.L. 1958, ch. 18, § 1; P.L. 1960, ch. 151, § 1; P.L. 1966, ch. 116, § 11; P.L. 1985, ch. 141, § 1.

17-15-11. Dispensation with primary when no contest. — Whenever there is no contest whatsoever within any voting district for the officers to be nominated or elected by a particular political party for any election, no primary election shall be held in that voting district and the secretary of state for state offices or the local boards for local offices shall declare those persons elected in the case of party committee members or delegates or nominated as candidates of a particular party for the office and their names shall not be printed on the primary ballot labels but shall be printed on the ballot labels for the election for which the nominations are made; provided, however, that the party committee members' names and the names of the delegates to the state convention of the respective party shall not be put on the election ballot.

History of Section.
P.L. 1947, ch. 1886, § 17; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 12; P.L. 1951, ch. 2731, § 1; G.L. 1956, § 17-15-11; P.L. 1958, ch. 18, § 1.

17-15-12. Ballot when contest exists. — Whenever there is a contest within any voting district, a primary election shall be held in the voting district and the names of all candidates for state office and the names of only those candidates for local office who are contesting a particular local office or offices shall appear on the ballot labels.

History of Section.
P.L. 1947, ch. 1686, § 17; P.L. 1951, ch. 2731, § 1; P.L. 1953, ch. 3202, § 2; G.L. 1956, § 17-15-12; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 11; P.L. 1987, ch. 389, § 10.

17-15-13. Voting places — Primary officials — Party officials — Appointment. — (a) From lists submitted to it by the chairman of the state committees of each party, the board shall appoint and issue commissions to a sufficient number of qualified electors of this state to be primary inspectors so that one inspector may be assigned for each party to each primary polling place to work with the other primary officials of his or her party. The local board shall at least twenty (20) days previous to the primary select the place or places designated by it for holding the primary election provided for by this chapter. The local board shall at least seven (7) days before any primary election appoint for each polling place within its city or town a primary warden or moderator, and a primary clerk, in the following manner: if there are primary contests in both major political parties, the warden and clerk shall be appointed as provided in § 17-11-11; if there is a primary contest in only one of the major political parties, the warden and the clerk shall be selected from a list submitted by the local committee of the party in which the contest exists.

(b) The local board shall also appoint, from lists submitted at least ten (10) days prior to the date set for the holding of the primaries, four (4) supervisors, in the following manner: if there are primary contests in both major political parties, one supervisor shall be appointed for each party in the manner provided in § 17-11-11 and two (2) supervisors, one for each party, shall be appointed from lists submitted by a majority of the respective party candidates, other than those endorsed by the party committee; if there is no primary contest in one of the major political parties, two (2) supervisors shall be appointed from a list submitted by the local committee in which the contest exists, and two (2) supervisors shall be appointed from a list or lists submitted by a majority of the party candidates, other than those endorsed by the party committee. The local board may appoint such additional pairs of supervisors as it may deem necessary in the same manner above provided.

(c) The local board shall also appoint for each party one watcher, two (2) checkers, and such number of runners, not to exceed three (3), as the appropriate party chairman may deem necessary, which watcher, checkers, and runners shall be designated as party officials. These party officials shall be appointed from lists of qualified elec-

tors who are qualified to vote at the respective party primaries which lists shall be furnished as aforesaid to the local board at least ten (10) days prior to the date set for the holding of the primary. If the party candidates or a majority of them, other than those endorsed by the party committee, shall notify the local board in writing of their choices, at least ten (10) days prior to the date set for the holding of the primaries, the local board shall likewise appoint one watcher, two (2) checkers, and such number of runners as it shall have appointed at the request of the party chairman, to act for them collectively. The local board shall give them certificates as party officials.

History of Section.
P.L. 1947, ch. 1886, § 19; P.L. 1948, ch. 2100, § 1; P.L. 1953, ch. 3202, § 3; G.L. 1956, § 17-15-13; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4; P.L. 1990, ch. 32, § 1.

17-15-14. Qualifications of primary officials — Affidavit. — (a) Each warden or moderator and each primary supervisor appointed under the provisions of §§ 17-15-13 and 17-15-16 shall be able to read the Constitution of the state in the English language, and to write his or her name and shall be a party voter of the senatorial district, representative district, or town, ward, or voting district from which he or she is appointed.

(b) No person shall be so appointed to serve as a primary official who has been convicted, found guilty, pleaded guilty or nolo contendere, or placed on a deferred or suspended sentence or on probation for any crime which involved moral turpitude or a violation of any of the election, caucus, or primary laws of this or any other state.

(c) No person shall be appointed to serve as such primary official who is an officer or employee of the United States, of this state, or of any city or town of this state, but no person shall be so disqualified solely because that person is a notary public, or a teacher.

(d) No person who is seeking nomination or election at any primary election shall act as a primary official at that primary.

(e) Every primary official shall make an affidavit before the proper local board or some member thereof to the effect that that official is not disqualified by reason of the provisions of this section.

History of Section.
P.L. 1947, ch. 1886, § 19; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-14; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 11.

17-15-15. Powers and duties of primary officials — Compensation. — Primary wardens, moderators, clerks, and supervisors shall have the same powers and duties in the conduct of primary elections as are conferred and imposed by law upon general election officials, and they shall receive the same compensation as general election officials.

History of Section.
P.L. 1947, ch. 1886, § 19; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-15; P.L. 1958, ch. 18, § 1.

17-15-16. Vacancies among primary officials. — Vacancies occurring among primary officials shall be immediately filled by the local boards in the same manner as provided for general elections as qualified by § 17-15-13; provided, however, that in the event there be no lists available then the local board shall appoint some person or persons to fill the vacancy from the primary lists of the party.

History of Section.
P.L. 1947, ch. 1886, § 19; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-16; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4.

17-15-17. Notice of primaries. — At least eight (8) days before the time of holding any primary election, the local board shall cause notice of the primary to be posted in at least one public place in each voting district of any city, and in at least one public place in each voting district of a town; the notice shall state the time when, and the place where, the primary is to be held in each town or voting district, and the offices for which candidates are to be nominated; provided, however, that the local boards may at their discretion substitute notification by publication in a newspaper having local circulation for the above mentioned posting in public places.

History of Section.
P.L. 1947, ch. 1886, § 20; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-17; P.L. 1958, ch. 18, § 1.

17-15-18. Apportionment of voting machines. — The apportionment of voting machines for the primary election of each political party shall, as far as possible, be on the same basis as for general elections except that the determination shall be made with reference to the average number of votes received by the candidates of each party at the preceding general election.

History of Section.
P.L. 1947, ch. 1886, § 21; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-18; P.L. 1958, ch. 18, § 1.

17-15-19. Arrangement and paraphernalia at voting places. — The primary election voting places shall be equipped by the local boards with the paraphernalia necessary for conducting elections and except as otherwise specifically provided in chapters 12 to 15, inclusive, of this title, the voting places shall be arranged wherever practicable in the manner provided in chapter 19 of this title.

History of Section.
P.L. 1947, ch. 1886, § 22; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-19; P.L. 1958, ch. 18, § 1.

17-15-20. Primaries conducted in same manner as general elections. — Except as otherwise provided in this chapter, primary elections shall be conducted as nearly as may be in the manner provided in chapter 19 of this title for the conducting of general elections; except that the voting in each party shall be cast on separate voting machines.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-20; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4.

17-15-21. Identification of party voters. — Before permitting any person to vote in a primary election, the warden or clerk and bipartisan pair of supervisors assigned by the warden shall ascertain from the voting record appearing on the voter's registration record that the voter is not disqualified to vote therein by the provisions of § 17-15-24. The ballot applications used by the party voters of each party shall be of a distinctive color and the front of the voting machine booths allocated to each party shall be marked with the same color. The warden shall take such steps as may be necessary to assure that each voter is directed to a voting machine upon which the voter is eligible to vote.

History of Section.
G.L. 1956, § 17-15-21; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4.

17-15-22. Party checkers. — The local board shall by written rule provide for the presence of party checkers to be seated outside the rail next to the warden to make a list of those who vote and for the distribution of lists or memoranda to the proper representatives or candidates or groups of candidates.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-22; P.L. 1958, ch. 18, § 1.

17-15-23. Affidavit and examination of voter not listed. — Any voter finding that his or her name is not on the voting list to be used at the primary election may make an affidavit before the local board, each member of which is hereby empowered to take his or her affidavit, that he or she is not disqualified by reason of having voted in a primary of another political party and is not otherwise disqualified. The board may examine the voter and if it finds that the voter is qualified to vote in the primary the voter shall, upon making the affidavit above provided for, be allowed to vote. For purposes of administering the provisions of this chapter, local boards shall be continuously in session during the hours assigned for voting in the town or city.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-25; G.L. 1956, § 17-15-23; P.L. 1958, ch. 18, § 1.

17-15-24. Disqualification by activity in other party. — No person shall be entitled to vote in the primary election of any political party who has voted in a primary election as a member of any other political party and has not changed his or her party designation as provided in chapter 9 of this title or has designated his or her affiliation with any other political party, as set forth in chapter 9 of this title. No person shall be debarred from voting in a party primary solely because of that person's signing of nomination papers of a candidate to be voted for at any primary. But a person having designated his or her party affiliation as set forth in chapter 9 of this title shall be deemed to have taken part in the primary as a member of that political party, and shall be debarred from voting in the primary as a member of the opposite political party until that person has changed his or her party affiliation as provided in chapter 9 of this title.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-26; G.L. 1956, § 17-15-24; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 107, § 3.

17-15-25. Nomination papers for delegates to constitutional conventions. — Notwithstanding the provisions of this chapter, every qualified elector shall be eligible to sign nomination papers for candidates for delegates to any constitutional convention. The signing of nomination papers for candidates for delegates to any constitutional convention shall not affect the rights of qualified electors under the provisions of this chapter, or any other general or public law affecting the qualification of voters.

History of Section.
P.L. 1951, ch. 2807, §§ 1, 2; G.L. 1956, § 17-15-27; G.L. 1956, § 17-15-25; P.L. 1958, ch. 18, § 1.

17-15-26. Challenge as to right to vote — Affidavit. — Any primary official or any watcher may challenge the right of any person offering himself or herself to vote thereat, and upon the challenge being made, the warden shall require that person, before allowing the challenged person to vote, to make and sign an affidavit that the person is a member of the party of which the person claims to be a member, and that the person is not disqualified by reason of the provisions of § 17-15-24. The state board shall prepare the forms for these affidavits, and furnish the warden with a sufficient number of them, and three (3) or more copies of them shall be posted up in conspicuous places at the voting place, that persons offering themselves to vote thereat may have an opportunity to see and read them.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-28; G.L. 1956, § 17-15-26; P.L. 1958, ch. 18, § 1; P.L. 1961, ch. 70, § 4.

17-15-27. Impartiality of officials — Sound equipment. — The primary officials shall treat all candidates with absolute impartiality. No sound equipment advocating the election or defeat of any candidate or the approval or disapproval of any referenda shall be allowed within five hundred (500) feet of any polling place.

History of Section.
P.L. 1947, ch. 1886, § 23; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-30; G.L. 1956, § 17-15-27; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 200, § 1.

17-15-28. Voting hours. — (a) The polls shall be kept open at all primary elections during the same hours the polls are kept open in the respective city or town for the holding of general elections, provided, however, that in the town of Westerly the polls shall be opened at nine o'clock (9:00) a.m. for primary elections, special elections, and all referenda.

(b) Provided, however, that in the town of Hopkinton, voting hours shall be those enumerated in § 17-18-10.

History of Section.
P.L. 1947, ch. 1886, § 24; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-31; G.L. 1956, § 17-15-28; P.L. 1958, ch. 18, § 1; P.L. 1982, ch. 216, § 2; P.L. 1982, ch. 342, § 2.

17-15-29. Number of votes required to nominate or elect. — In determining the nomination or election of a candidate at a primary election, the person receiving the largest number of votes, although less than a majority of all the votes cast for the candidates for a particular office, shall be declared so nominated or elected. Where there is more than one person to be elected to a particular office or place, those persons equaling that number of officers to be elected to the office or place receiving the largest number of votes, although less than a majority of all the votes cast for all the candidates for the office or place, shall be declared nominated or elected, as the case may be, unless otherwise provided by existing law.

History of Section.
P.L. 1947, ch. 1886, § 25; P.L. 1948, ch. 2100, § 1; P.L. 1050, ch. 2476, § 13; G.L. 1956, § 17-15-35; G.L. 1956, § 17-15-29; P.L. 1958, ch. 18, § 1.

17-15-30. Tabulation of local returns — Certificate of nomination or election. — The local board shall meet on the day following the primary election and shall tabulate the city or town primary returns, as the case may be, and announce the results, but shall issue no certificates of nomination, or election to party office, until the expiration of the period in which a recount may be requested as provided in § 17-15-34 and if a request has been filed, the result shall be finally determined by the local board. Following the expira-

tion of this period and the final determination by the local board, if any request for recount be made, the local board shall issue certificates of nomination, or election to party offices, to the candidates so nominated or elected.

History of Section.
P.L. 1947, ch. 1886, § 25; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-36; G.L. 1956, § 17-15-30; P.L. 1958, ch. 18, § 1.

17-15-31. Tabulation of state returns — Certificates of nomination or election. — The state board shall proceed to tabulate the state primary returns and announce the results, but shall issue no certificates of nomination until the expiration of the period in which a recount may be requested as provided in § 17-15-34 has expired and, if a request has been filed, until the result shall have been finally determined by the state board. Following the expiration of this period and the final determination by the state board, if any request for recount be made, the board shall issue certificates of nomination or election to the candidates so nominated or elected.

History of Section.
P.L. 1947, ch. 1886, § 25; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-37; G.L. 1956, § 17-15-31; P.L. 1958, ch. 18, § 1.

17-15-32. [Obsolete.]

Compiler's Notes. This section (P.L. 1947, ch. 1886, § 25; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-38; G.L. § 17-15-32, as enacted by P.L. 1958, ch. 18, § 1), requiring the contents of any certificate of nomination to state such facts as required by § 17-17-1, was deemed obsolete in the 1988 reenactment on account of the repeal of § 17-17-1.

17-15-33. Tie vote. — If there is a failure to make a nomination or to elect a candidate to party office at any primary, by reason of a tie vote, the vacancy, if in respect to an office to be filled by the voters of more than one city or town, shall be filled by the executive committee of the state committee of the respective party except, in the case of a senatorial or representative committee, the vacancy shall be filled by the members of the senatorial or representative district committee, as the case may be, and if in respect to an office other than a senatorial or representative district committee to be filled by the voters of no more than one city or town, or a portion of a city or town, the vacancy shall be filled by the city or town committee of the respective political party; provided, however, that the vacancy shall be filled only by the choice of one of the candidates receiving the tie vote. The name of the candidate so chosen by the appropriate party committee shall be officially certified to the state board or local board as the case may be.

History of Section.
P.L. 1947, ch. 1886, § 26; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-39; G.L. 1956, § 17-15-33; P.L. 1958, ch. 18, § 1; P.L. 1966, ch. 116, § 11.

17-15-34. Recount petition or other protest. — Any candidate whose name was on the primary ballot label on a particular voting machine may file with the state board a request for the recounting of the votes upon the machine, or other protest concerning the primary and any candidate whose name was on the primary paper ballot (in case voting machines were not used) may file with the board a request for the recounting of the votes of his or her party cast at a particular voting place or places, or other protest concerning the primary, provided in either case he or she files the request or protest no later than four o'clock (4:00) p.m. on the day following the primary. The request or protest shall contain the candidate's reason for making the request or protest. Nothing herein shall be construed to prevent the state board, acting on its own motion, from ordering a recount or taking appropriate action in response to any error, irregularity, or impropriety in the conduct of any facet of the primary which comes to its attention at any time prior to the certification of the results of the primary.

History of Section.
P.L. 1947, ch. 1886, § 27; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-40; G.L. 1956, § 17-15-34; P.L. 1958, ch. 18, § 1; P.L. 1983, ch. 172, § 23.

17-15-35. Hearing on recount or protest — Notice — Declaration of nomination or election. — Forthwith upon the filing of a protest or request the state board shall cause notice in writing to be served in such manner as it shall direct, at the expense of the petitioner, upon all other candidates of the same political party for the same office receiving votes at the primary and shall give notice in some public newspaper of general circulation in the voting district or districts where the primary took place, of the making of the request or protest and the time and place of hearing, which time shall be not less than one nor more than three (3) weekdays after the publication of the notice. At the hearing all candidates who may be affected by a recount may be heard in person or by their representative. The hearing and the examination of such voting machines or the recounting of such ballots, as the case may be, as may be necessary shall be conducted in a summary and expeditious manner, but the result of the voting as transmitted to the state board shall not be altered or changed by the board except upon satisfactory proof of its incorrectness. Following the hearing the state board shall declare what person, if any, was lawfully nominated or elected, and shall issue or direct the local board to issue to that person a certificate of the nomination or election.

History of Section.
P.L. 1947, ch. 1886, § 27; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-41; G.L. 1956, § 17-15-35; P.L. 1958, ch. 18, § 1.

17-15-36. Filing of state and city nominations. — The state board and the local boards in cities shall file with the secretary of state not later than four o'clock (4:00) p.m. on the fifth day following each primary preceding the election, or if the fifth day falls on a Sunday or a legal holiday, not later than four o'clock (4:00) p.m. on the following day, or not later than the twenty-ninth day preceding a special election, certified copies of the certificates issued by it pursuant to §§ 17-15-30 to 17-15-32, inclusive; provided, however, that in the event of a protest, the boards shall be allowed an additional forty-eight (48) hours.

History of Section.
P.L. 1947, ch. 1886, § 28; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 14; G.L. 1956, § 17-15-42; G.L. 1956, § 17-15-36; P.L. 1958, ch. 18, § 1; P.L. 1962, ch. 191, § 3; P.L. 1991, ch. 194, § 3; P.L. 1991, ch. 277, § 3.

17-15-37. Filing of town nominations. — The local boards in towns shall file with the town clerk not later than four o'clock (4:00) p.m. on the fourth day following each primary preceding the election certified copies of the certificates issued by them pursuant to this chapter; provided however, that in the event of a protest the local board shall be allowed an additional forty-eight (48) hours; and the town clerk shall file with the secretary of state within twenty-four (24) hours thereafter, exclusive of Sundays and holidays, certified copies of the certificates filed with the clerk; and further provided, that in towns which now by law hold elections for town officers on a day other than the Tuesday after the first Monday in November biennially in each even year, or in the event of a special election, the certified copies shall be filed with the town clerk not later than the tenth day preceding the election or special election.

History of Section.
P.L. 1947, ch. 1886, § 28; P.L. 1948, ch. 2100, § 1; P.L. 1950, ch. 2476, § 14; G.L. 1956, § 17-15-43; G.L. 1956, § 17-15-37; P.L. 1958, ch. 18, § 1; P.L. 1962, ch. 191, § 3.

17-15-38. Vacancies among nominees. — Whenever the nominee of a party for a particular office dies after the primary or removes him or herself from the jurisdiction of or as a candidate for the office for which the nominee seeks election or becomes physically or mentally disabled, the state committee of that party or a duly authorized subcommittee thereof in the case of state officers, and the appropriate city, town, ward, or district committee or any duly authorized subcommittee thereof in the case of candidates for the other offices covered by § 17-15-7, may file with the appropriate authority the name of its nominee for the office; Provided however, That except in the case of death, the appropriate committee shall file the name with the appropriate authority no later than four o'clock (4:00) p.m. of the third day following the last day for the holding of the party primaries; and provided further, that any appointed nominee shall have been eligible for the nomination on the dates as required by and pursuant to the requirements of §§ 17-14-1.1, 17-14-2, and

17-14-2.1. The person so named shall be the nominee of the party for the office, and if in case of death of a nominee time will permit the secretary of state shall place the name of the nominee upon the election ballot labels. When the withdrawal or death occurs after the third day after the last day for holding primaries, the secretary of state shall not be required to remove from any mail ballot which has already been printed the name of any person who is no longer the nominee of a party for a particular office as provided above, and any votes cast in any election for any such person shall not be counted.

History of Section.
P.L. 1947, ch. 1886, § 29; P.L. 1948, ch. 2100, § 1; P.L. 1952, ch. 2941, § 1; G.L. 1956, § 17-15-44; G.L. 1956, § 17-15-38; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 243, § 1; P.L. 1983, ch. 243, § 2; P.L. 1987, ch. 389, § 10; P.L. 1988, ch. 84, § 76; P.L. 1990, ch. 395, § 2; P.L. 1991, ch. 173, § 1.

17-15-39. Preservation of primary records. — All declarations of candidacy, nomination papers, and all requests for withdrawal of names of candidates, whether before or after the holding of a primary, when filed, and all protests and requests for recounts, shall be open, under proper regulation, to public inspection, and the state board shall preserve these records in its office not less than twenty-six (26) calendar months from the date of filing.

History of Section.
P.L. 1947, ch. 1886, § 30; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-45; G.L. 1956, § 17-15-39; P.L. 1958, ch. 18, § 1; P.L. 1987, ch. 389, § 10.

17-15-40. Right to nominate by petition preserved. — Except as herein otherwise specifically provided, this chapter shall not be construed to prevent the nominations of candidates by individual voters in accordance with the provisions of chapter 16 of this title.

History of Section.
P.L. 1947, ch. 1886, § 32; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-46; G.L. 1956, § 17-15-40; P.L. 1958, ch. 18, § 1.

17-15-41. School committee caucuses unaffected. — All nonpartisan school district caucuses, specially provided for by statute, shall be exempt from the provisions of this chapter. Nothing herein contained shall, however, be construed to exempt any caucuses for nomination of members of school committees from the provisions of chapter 19 of this title.

History of Section.
P.L. 1947, ch. 1886, § 34; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-47; G.L. 1956, § 17-15-41; P.L. 1958, ch. 18, § 1; P.L. 1988, ch. 84, § 76.

17-15-42. [Repealed.]

Repealed Sections. Section 17-15-42 (P.L. 1947, ch. 1886, § 35; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-48; G.L. 1956, § 17-15-42; P.L. 1958, ch. 18, § 1; P.L. 1978, ch. 201, § 8; P.L. 1987, ch. 389, § 10; P.L. 1988, ch. 84, § 76), concerning violations with respect to elections, was repealed by P.L. 1991, ch. 147, § 1, effective June 16, 1991.

17-15-43. Application of election law. — All political party primaries shall be construed to be "elections" as defined in this title, and all the provisions of this title shall, insofar as consistent with the provisions of this chapter, apply to all political party primaries.

History of Section.
P.L. 1947, ch. 1886, § 36; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-49; G.L. 1956, § 17-15-43; P.L. 1958, ch. 18, § 1.

17-15-44. Rules — Recommendations for amendment of laws. — The state board shall have power to make such rules as it deems designed to promote the objects and purposes of chapters 12 to 15, inclusive, of this title, and shall annually report in writing to the general assembly the amendments it recommends should be made to these chapters.

History of Section.
P.L. 1947, ch. 1886, § 38; P.L. 1948, ch. 2100, § 1; G.L. 1956, § 17-15-50; G.L. 1956, § 17-15-44; P.L. 1958, ch. 18, § 1.

tion purposes. The nominees for general office of each political party as defined in § 17-12.1-12 and independent candidates for those offices who meet the requirements set forth in § 17-25-20(6) shall be eligible to receive two dollars ($2.00) of public funds for each qualified dollar ($1.00) of private funds contributed which do not exceed an aggregate of two hundred and fifty dollars ($250) from a single source within an election cycle and one dollar ($1.00) of public funds for each qualified dollar ($1.00) of private funds contributed which exceed an aggregate of two hundred and fifty dollars ($250) from a single source within an election cycle but do not exceed the limitations on aggregate contributions which are eligible to be matched set in subsection (3) of § 17-25-20. The total amount of public funds provided to a candidate shall not exceed seven hundred fifty thousand dollars ($750,000) in matching funds for a total of one million five hundred thousand dollars ($1,500,000) for candidates for governor; and one hundred eighty-seven thousand five hundred dollars ($187,500) in matching funds for a total of three hundred seventy five thousand dollars ($375,000) for candidates for other general offices. In order to be eligible for matching public funds, each candidate at the time he or she becomes a candidate as defined in § 17-25-3(a), must sign a statement under oath pledging to comply with the limitations on campaign contributions and expenditures and with all of the terms and conditions set forth herein. Any candidate who fails to file the statement with his or her declaration for office shall be ineligible to receive public funds.

History of Section.
P.L. 1988, ch. 420, § 1; P.L. 1992, ch. 21, § 3.

17-25-20. Eligibility criteria for matching public funds. — In order to receive matching public funds under § 17-25-19 a qualifying candidate must comply with the following requirements:

(1) The candidate must sign a statement under oath, as provided for in the preceding section, pledging to comply with the limitations on contributions and expenditures for election purposes and with all the terms and conditions set forth herein. Upon the filing of the statement, a candidate for general office shall be bound to abide by the limitations on contributions and expenditures set forth in this chapter and may not withdraw from his or her obligation to abide by said restrictions.

(2) No participating candidate shall either receive or expend for election purposes more than a total of public and private funds in the sum of one million five hundred thousand dollars ($1,500,000) in an election cycle. No participating candidate for general office other than governor shall receive or expend for election purposes more than a total of public and private funds in the sum of three hundred seventy five thousand dollars ($375,000) in an election cycle.

The aforementioned limitations on contributions received from private sources, matching funds available from the state and total permitted expenditures shall apply in the 1994 general election and shall increase by a percentage to be determined by the board of elections in January of each year in which a general election is held, beginning in 1996. In no case shall the increase exceed the total increase in the consumer prive index since the month in which the previous general election was held.

(3) Only the first one thousand dollars ($1,000) of the aggregate private monetary contributions from a single private source within an election cycle shall be eligible for matching public funds; provided however the entire amount contributed shall be considered toward the dollar limits provided in subsection (2) herein.

Only the first five hundred dollars ($500) of the aggregate private monetary contributions from a single private source within an election cycle shall be eligible for matching public funds for candidates for lieutenant governor, secretary of state, attorney general, and general treasurer; provided however the entire amount contributed shall be considered toward the dollar limits provided for in subsection (2) herein.

Any private funds lawfully contributed during the current election cycle shall be eligible for matching public funds subject to the terms and conditions of this section, and private funds donated during a preceding election cycle shall not be eligible for such matching public funds.

(4) The direct costs incurred in connection with raising campaign funds on behalf of a candidate shall not be deemed to be expenditures for the purposes of the limitations on expenditures set forth in subsection (2). Direct costs shall include costs of printing and mailing invitations to fundraising events, solicitations for contributions, costs of hosting fundraising events, and travel to those events, but shall not include any portion of the salary or wages of campaign employees, nor the cost of any radio, television or printed advertisement. The cost of a fundraising event must be less than the amount of money realized from the gross proceeds generated by the fundraising event in order to qualify for this exclusion.

(5) If a candidate who has accepted public funds makes expenditures in excess of the permitted amounts, the candidate shall be liable for a civil assessment payable to the state in an amount equal to three (3) times the amount of excess funds expended. In addition, the candidate shall be ineligible for further participation in the public financing program during the same election cycle.

(6) In order to receive payments under this section, any independent candidate shall first meet the following additional minimum requirements:

(a) Raise an amount in qualified private contributions equal to twenty percent (20%) of the total amount eligible to be matched for election as to the office sought;

(b) Receive private contributions from a minimum of two hundred fifty (250) individuals contributing at least twenty-five dollars ($25.00) each; and

(c) Comply with any and all applicable nomination provisions in this title and qualify for the general election ballot pursuant to the process set forth in this title.

(7) No public funds received by any candidate pursuant to §§ 17-25-19 through 17-25-27 of this chapter and no private funds used to qualify for the public funds shall be expended by the candidate for any purpose except to pay reasonable and necessary expenses directly related to the candidate's campaign.

(8) No public funds shall be expended by the candidate except for one or more of the following uses directly related to the campaign of the candidate:

(a) Purchase of time on radio or television stations;

(b) Purchase of rental space on outdoor signs or billboards;

(c) Purchase of advertising space in newspapers and regularly published magazines and periodicals;

(d) Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;

(e) Payment of the cost of printing and mailing campaign literature and brochures;

(f) Purchase of signs, bumper stickers, campaign buttons and other campaign paraphernalia;

(g) Payment of the cost of legal and accounting expenses incurred in complying with the public financing law and regulations as required by this chapter;

(h) Payment of the cost of telephone deposits, installation charges and monthly billings in excess of deposits;

(i) Payment of the costs of public opinion polls and surveys; and

(j) Payment of rent, utilities and associated expenese connected with the operation of an election headquarters or satellite election offices.

(9) Contributions received and expended by any candidate for the purpose of defraying any expense or satisfying any loan obligations incurred prior to January 1, 1991 by the candidate in furtherance of his or her candidacy in a previous election cycle (as defined in § 17-25-3(k)) shall not be counted toward any contribution or expenditure limitation in §§ 17-25-18 through 17-25-27.

(10) No candidate who has elected to receive public funds shall contribute to or loan to his or her own campaign a sum in excess of five percent (5%) of the total amount which a candidate is permitted to expend in a campaign for said office pursuant to § 17-25-19 and § 17-25-21.

CONSTITUTIONAL, STATUTORY and TREATY PROVISION INVOLVED

This case involves the First Amendment, the first section and second sections of the Fourteenth Amendment to the Constitution of the United States, which provides as follows:

First Amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; the freedom of the speech, or of the press, or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.

Fourth Amendment. The right of the people to be secure in their persons, houses, papers, and effects , against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon, probable cause, supported by Oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment. No person shall be held for a capital, or otherwise infamous crime, unless on presentation or indictment of a Grand Jury, except in the cases arising in the land or naval forces, or in the militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put into jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Seventh Amendment. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Ninth Amendment. The enumeration of the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Tenth Amendment. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectfully, or to the people.

Twelfth Amendment. The electors shall meet in their prospective states, and vote by ballot for President and Vice-President, one of whom, at least,

shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States;- The President of the Senate shall, in the presence of the Senate and house of Representatives, open all the certificates and the votes shall then be counted;- The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the person having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes the votes will be taken by states, a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all states shall be necessary to a choice. (superseded section omitted and ***[Section 3 of the Twentieth Amendment]*** *added) If at the time fixed for the beginning of the term of President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified, and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one of who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified (italics added for clarity).* The person having the greatest number of votes for Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Fourteenth Amendment, Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any state deprive any person of life, liberty, or

property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive, and Judicial offices of a State, or the members of the Legislator thereof, is denied to any male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in proposition with the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Twenty-fourth Amendment. Section 1. The right of citizens of the United States to vote in any primary or any other election for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

RHODE ISLAND CONSTITUTION

Article I, Declaration of Certain Rights and Principles. In order effectually to secure the religious and political freedom established by our venerated ancestors, and to preserve the same for our posterity, we do declare that the essential and unquestionable, rights and privileges hereafter mentioned shall be established maintained, and preserved, and shall be of paramount obligation in all legislative, judicial and executive proceedings.

Section 2. All governments are instituted for the protection, safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof.

Section 6. The right of the people to be secure in their persons, houses, papers. and possessions, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing as nearly as may be, the place to be searched and the persons or things to be seized.

Section 21. The citizen has a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or for other purposes, by petition, address, or remonstrance. No law abridging the freedom of speech shall be enacted.

Section 24. The enumeration of the forgoing rights shall not be construed to impair or deny others retained by the people. The rights guaranteed by this Constitution are not dependent on those guaranteed by the Constitution of the United States.

Article II, Section 1, Of Suffrage. Every citizen of the United States of the age of eighteen years or over who has resided and home in this state for thirty days next preceding the time of voting, who has resided thirty days in the town or city from which such citizen desires to vote, and whose name shall be registered at least thirty days next preceding time of voting, shall have the right to vote for all offices to be elected and on all questions submitted to the electors, except that no person who has been lawfully adjudicated to be non compos mentis shall be permitted to vote. No felon shall be permitted to vote until completion of such felon's sentence, served or suspended, and of parole or probation regardless of a nolo contendere plea. Upon such completion, such person right to vote shall be restored. The general assembly may provide by law for shorter state and local residence requirements to vote for electors for president and vice president of the United States.

Section 2. The general assembly shall provide by law for the nomination of candidates; for a uniform system of permanent registration of voters; for the exemption from such registration of persons in the active service of the nation and their families absent from the state because of such service, and, in the time of war, members of the merchant marine; for absentee and shut in voting; for the time, manner and place of conducting elections; for the prevention of abuse, corruption and fraud in voting; and may define by law residence for voting purposes, but no person shall acquire such reside merely

by being stationed or assigned in this state in the active service of the United States.

Article VI, Section 14, Of Legislative Powers. The general assembly may provide by general law for the creation and control of corporations; provided, that no corporation shall be created with the power to exercise the right of eminent domain, or to acquire franchises in the streets and highways of towns and cities, except by special act of the general assembly upon a petition for the same, the pendency whereof shall be notified as may be required by law.

RHODE ISLAND GENERAL LAWS (ELECTION LAWS)

17-8-1. Appointment of bipartisan authority.- The legislative body of each city and town shall appoint a bipartisan canvassing authority of three (3) qualified electors of the city or town, not more than two (2) of whom shall belong to the same political party and may appoint two (2) alternate members, not more than one of whom shall belong to the same political party. At any meeting of the canvassing authority at which a member is to be absent, the member may request that an alternate replace him/her for that meeting provided, however, that the alternate member must be of the same political party as the member. The mayor or the president of the town council shall nominate the members of the canvassing authority from lists of party voters submitted by the respective chairmen of the city or town political committee, which lists shall contain the names of five (5) times the number of persons to be appointed If the legislative body shall refuse to approve the nomination of any person to the canvassing authority, the mayor or the president shall submit to the legislative body another person named on one of the lists, and so on until a person shall be appointed; provided, however, if the chairman of the city or town committee of a political party entitled to an appointment shall fail or refuse to submit a list as aforesaid, the mayor or the president shall nominate any party voter of the political party entitled to the appointment.

17-8-5. Local boards--powers and duties--quorum.- Each canvassing authority shall have and exercise the functions, powers, and duties provided for local boards by this title or by any law not inconsistent herewith. It shall:

(2) Have and discharge all the functions, powers, and duties of the council concerning nominations, elections, registration of voters and

canvassing rights, the preparing and correcting of voting lists, and other matters relating thereto, which powers are transferred to the local board;

17-14-4. Preparation of nomination papers for candidates--combination of endorsed candidates--furnishing of nomination papers to candidates.- Upon receipt of the declarations referred to in 17-14-1 within two (2) business days of the final date for filing endorsements, the secretary of state for statewide candidates and the local board for general assembly and local candidates shall prepare nomination papers for each person who has filed a declaration of candidacy as provided in 17-14-1; provided, however, that a minimum of three (3) sets of nomination papers shall be prepared for each candidate whose name appears on nomination papers containing the name of a candidate for general assembly and for local office, and provided further, however, that nomination papers for voters from the city of Providence for the offices enumerated in 17-14-1 shall be furnished by the secretary of state. Nomination papers shall be prepared with the name of the candidate as it appears on the voting list notwithstanding that the candidate may have signed his or her declaration of candidacy other than as such candidates' name appears on the voting list. Candidates for nomination for different offices endorsed by the appropriate committee on any party shall be combined on the same nomination papers. The names of candidates for different offices not endorsed by the appropriate committee of any party shall not be combined on the same nomination papers. Combined nomination papers for endorsed candidates for general assembly and their respective committees shall be furnished by the local board of the general assembly candidate. Nomination papers shall be furnished to the local boards by the secretary of state and each shall bear the imprint of the state coat of arms and such additional language as required by law. Nomination papers shall be appropriately marked or color coded to indicate the different political parties, the endorsed and unendorsed candidates of those parties and independent candidates.

General assembly and local candidates for nomination may, at their own expense, have nomination papers duplicated. The signatures obtained on said duplicated nomination papers shall be considered valid if and only if, prior to any signatures being affixed, the duplicated nominations papers have been timed-stamped by the secretary of state or local board of canvassers which issued the original nomination papers.

17-15-1. Date of primaries.- A primary election for the nomination of candidates for each political party shall be held in each voting district in the

manner hereinafter provided on the second Tuesday after the first Monday in September in 19622 and in each even numbered year thereafter.

17-15-8. Listing of candidates on ballots and ballot labels.- The secretary of state shall forthwith upon receipt of the certificates provided for by chapter 14 of this title cause the proper ballots or ballot labels to be prepared for use in the various voting districts. Names and addresses on party candidates for a particular office shall be printed horizontally and alphabetically opposite and to the right of the names of the office they seek and shall not appear on the ballot more than once for the same office; provided, however, the names and addresses of candidates having the endorsement of the party committees shall be printed in the first column at the right of the title of the offices they seek and shall be marked with an asterisk (*); provided, further, however, that in the event that there be more candidates for a particular office than the voting machine can accommodate in the horizontal column, the names and addresses shall be continued in alphabetical order succeeding the last name at the extreme right of the column to the next horizontal column beneath the column. Names and addresses of candidates shall be printed upon the ballots and ballot labels as such names appear on the voting list, notwithstanding that the candidate may have signed his or her declaration of candidacy other than as such candidate's name appears on the voting list.

17-25-20 Eligibility criteria for matching public funds.- In order to receive matching public funds under 17-25-19 a qualifying candidate must comply with the following requirements:

(6) In order to receive payments under this section, any independent candidate shall first meet the following additional minimum requirements:

(a) Raise an amount in qualified private contributions equal to twenty percent (20%) of the total amount eligible to be matched for election as to the office sought;

(b) Receive private contributions from a minimum of two hundred fifty (250) individuals contributing at lease twenty five dollars ($25.00) each; and

(c) Comply with any and all applicable nomination provisions in this title an qualify for the general election ballot pursuant to the process set forth in this title

17-1-2 General provision, definitions.- (f) (g) (n) (o) (p) For the purposes this title, except as may otherwise be required by the context:

`(f) "Political party" or "party" shall mean any political organization which at the preceding general election nominated a candidate for governor,

and whose candidate for governor at the election polled at least five percent (5%) of the entire vote cast in the state for governor;

(g) "Primary election" shall mean any election to settle the candidates of a political party;

(n) "Party member" shall mean any person who is a member of a designated political party pursuant to 17-9-26.

(o) "Qualified voter" shell mean any person who is eligible to vote under the requirements of age, residence, and citizenship prescribed by the state constitution and who is duly registered to vote, or who is exempt from registration, pursuant to this title, and who is not otherwise disqualified as voter pursuant to law;

(p) "Party voter" shall mean any qualified voter who is eligible to vote at the primary election of a political party;

CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE; DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION,

June 29, 1990

(5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.3) - the duty of government and public authorities to comply with the constitution and to act in a manner consistent with law;

(5.4) - a clear separation between the State and political parties; in particular, political parties will not be merged with the State;

(5.9) - all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;

(5.12) - the independence of judges and impartial operation of the public judicial service will be ensured;

(6) The participating State declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the

authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with the laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

(7)- To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.3) - guarantee universal and equal suffrage to adult citizens;

(7.5) - respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

(7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from freely learning and discussing them or from casting their vote free of fear of retribution;

(7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media or anon-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

(9) The participating State reaffirm that

(9.3) - the rights of association will be guaranteed. the right to form and - subject to the general right of a trade union to determine its own membership

- freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;

(23) The participating Sates reaffirm their conviction expressed in the Vienna Concluding Document that the promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for human dignity and for the attainment of the legitimate aspirations of every individual. They also reaffirm their commitment taken in the Document of the Bonn Conference on Economic Co-operation in Europe to the promotion of social justice and the improvement of living and working conditions. In the context of realization of economic, social and cultural rights by all appropriate means, they will pay special attention to problems in the areas of employment, housing, social security, health, education and culture.

(24) The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will nor be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

Any restrictions on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

CASE CITES

ASSOCIATION, PRIVACY & PRIVACY OF ASSOCIATION

C-1 S.D.Fla. 1992. Once plaintiff shows that government has intruded into fundamental right of privacy, government must show that challenged regulation or act serves compelling states interest through least intrusive means. West's F.S.A. Const. Art. 1, section 23.--Pottinger v. City of Miami, 810 F.Supp. 1551.

C-2 D.Md. 1992. Keeping of sensitive information relating to personal lives and activities of private citizens for extended periods of time requires that government have .legitimate interest in collecting information.--Hodge v. Carroll County Dept. of Social Services, 812 F.Supp. 593.

C-3 D.Mass . 1993. Constitution protects two types of privacy interest: individual interest in avoiding disclosure of personal matters, and interest in independence in making certain kinds of important decisions.--Doe v. Town of Plymouth, 825 F.Supp. 1102.

C-4 S.D.N.Y. 1991. Constitutional Right to privacy does not extend to matters of public record. U.S.C.A. Const.Amend. 1, Doe v. City of New York, 825 F.Supp. 36, re-versed 15 F.3d 264.

C-5 N.D.Ohio 1991. Constitution protects right to avoid disclosing matters of personal nature and right to independence in making certain types of important, personal decisions.--Doe v. City of Cleveland, 788 F.Supp. 979.

C-6 E.D.Pa. 1993. Generally, constitutional right to privacy consist of right to be free of interference when making particular important decisions and interest in avoiding disclosure of personal matters. U.S.C.A. Const.Amend. 14.--Puricelli v. Borough of Morrisville, 820 F.Supp. 908, motion denied 1993 WL 303285, affirmed 26 F.3d 123.

C-7 W.D.N.Y. 1991. It is coupling of personal information with person's identification to public, that is intrusive of constitutional right of privacy.--Borzillieri v. American Nat. Red Cross, 139 F.R.D. 284, vacated.

C-8 N.D.Tex. 1993. Provisions of Texas Constitution prohibiting excessive bail, excessive fines and cruel and unusual punishment and mandating that no citizen shall be deprived of life, liberty, property, privileges or immunities

except by due course of law encompassed right to private that is treated by Texas law to be more fundamental than privacy right embodied in United States Constitution; law of Texas is the right of privacy by Texas Constitution yields only when government can demonstrate that intrusion is reasonably warranted for achievement of compelling governmental objective that can be achieved by no less intrusive, more reasonable means. Vernon's Ann.Texas Const. Art. 1, sections 13, 19.--Id.

C-9 W.D.Tex. 1992. Individuals are constitutionally protected against invasions of their privacy by government.--National Treasury Employees Union v. U.S. Dept. I.R.S., 843F.Supp. 214, vacated 25 F.3d 237.

C-9.1 Constitutional protection against invasion of individuals' privacy by government includes freedom from disclosing personal matters to government (confidentiality strand) and freedom to make certain kinds of decisions without governmental interference (autonomy strand).--Id.

C-9.2,Confidentiality strand of constitutionally protected right to privacy includes right to be free from government inquiring into private facts or disclosing private facts about individual without legitimate reason.--Id

C-9.3 Constitution protects against invasions of privacy involving most intimate of human affairs.--Id.

C-9.4 Constitution protects individuals from having to disclose personal matters.--Id.

C-10 U.S.Ill. 1992. Citizens have a constitutional right to create and develop new political parties, derived from the First and Fourteenth amendments. U.S.C.A. Const.Amend. 1, 14.--Norman v. Reed, 112 S.Ct 698, 116 L.Ed. 711, on remand, Reed v. Kusper, 180 Ill.Dec.685, 607 N.E.2d. 1198, 154 Ill. 2d 77, certiorari denied 113 S.Ct. 3000, 125 L.Ed.2d. 693.

C-10. I To the degree that a state would thwart the interest of like- minded voters to gather in pursuit of common political ends by limiting access of new parties to the ballot, there must be corresponding interest sufficiently weighty to justify the limitation, and any severe limitation must be narrowly drawn to advance a state interest of compelling importance. U.S.C.A. Const.Amend. 1, 14.--Id.

C-10.2 State statute construed as prohibiting the use of the name of a political party established in one district for candidates in another district was broader than necessary to serve state's asserted interest in prohibiting candidates from adopting the name of a political party with which they are not affiliated, and violate First and Fourteenth Amendment rights of those forming new party. U.S.C.A. Const.Amend. 1,, 14; Ill.S.H.A. ch 46,paragraph 10-2.--Id.

C-10.3 Statute which effectively required new political party to gain more signatures on ballot petitions in multidistrict subdivisions of the state than were required to obtain a place on the statewide ballot violated First and Fourteenth rights of members of new party. U.S.C.A. Const.Amend. 1, 14; Ill.S.H.A.ch 46, paragraph 10-2.Id.

C-10.4 State interest in insuring electoral support for new party in every district within a multidistrict subdivision in which the party seeks to be on the ballot could not justify requirement of requiring a greater number of signatures for ballot in multidistrict subdivision than would be required to get on the statewide ballot. U.S.C.A. Const.Amend. 1. 14; Ill.S.H.A.ch 46, paragraph 10-2.Id.

C-11 C.A.D.C. 1991. Government may violate First Amendment when it investigates someone because it dislikes that person's political views. U.S.C.A. Const.Amend. 1.--ACLU Foundation of Southern California v. Barr, 952 F.2d 457, 293 U.S.App.D.C. 101, rehearing denied.

C-12 C.A.9(Cal.) 1990. State's broad authority to prescribe procedures governing local elections does not distinguish state's responsibility to observe limits established by First amendment rights of state's citizens. U.S.C.A. Const.Amend. 1.--Geary v. Renne, 911 F.2d 280, certiorari granted 111 S.Ct. 2331, 501 U.S. 312, 115 L.Ed.2d. 288, on remand 943 F.2d 32.
C-12. 1 State election law which burdens rights protected by First and fourteenth Amendments can survive constitutional scrutiny only if state shows that it address compelling state's interest and is narrowly tailored to serve that interest. U.S.C.A. Const.Amend. 1, 14.--Id.

C-13 C.A.11(Ga.) 1993. Mere Fact that the state has created barriers to limit field of candidates does not alone compel strict scrutiny; rather, court considering state election law challenge must weigh character and magnitude of asserted injury to rights protected by First and Fourteenth Amendments that plaintiff seeks to vindicate against precise interest put forward by state

as justification for burden imposed by its rule, taking into consideration extended to which those interest make it necessary to burden plaintiff's rights. U.S.C.A. Const.Amends. 1, 14.--Duke v. Cleveland, 5 F.3d 1399, rehearing denied 13 F.3d 411.

C-14 C.A.6(Ohio) 1992. Primary concern in any ballot access case is not interest of candidate, but rather interest of voters who support candidate and views espoused by candidate; voter interests at stake are basic associational rights secured against state action by First and Fourteenth Amendments to United States Constitution, and any restriction on ballot access by candidates necessarily burdens rights of their supporters to some extent. U.S.C.A. Const.Amends, 1, 14.-Rosen v. Brown, 970 F.2d 169.

C-14.1 Ohio statute prohibiting placement of "Independent" designation below name of candidate on general election ballot burdened First and Fourteenth Amendment rights of supporters of Independent candidates; evidence present by election and voting experts showed that, by providing "voting cue" to Democrat and Republican candidates while refusing to provide such cue for Independent candidates, state infringed upon rights of supports of Independent candidates to meaningfully vote and meaningfully associate, since failure to provide cue made it virtually impossible for Independents candidates to prevail in general election. U.S.C.A. Const.Amends, 1, 14.--Id.

C-14.2 Ohio election statute prohibiting placement of "Independent" designation below candidate's name on general election ballot violated First and Fourteenth Amendments of the United States Constitution; state's justifications for imposing burden upon Independent candidates , including minimizing ballot-generated voter confusion, protecting integrity of established and formally recognized majority political parties, and producing more manageable ballot, were highly questionable. U.S.C.A. Const.Amends, 1, 14.--Id.

C-15 C.A.7(Wis.) 1991. State's broad power to regulate time, place and manner of election does not extinguish state's responsibility to observe limits established by First Amendment rights of state's citizens. U.S.C.A. Const.Amends, 1, 14;,W.S.A. 8.03(l), 8.15(7).-- Swamp v. Kennedy, 950 F.2d 383, rehearing denied, certiorari denied 112 S.Ct. 2992, 120 L.Ed.2.d 870.

C-15.1 To examine constitutionality of state election law, court examines whether laws burdens rights protected by First and Fourteenth Amendment, and if so, law survives constitutional scrutiny only if state shows that law advances compelling state interest and is narrowly tailored to serve that interest. U.S.C.A. Const.Amends. 1, 14.--Id.

C-16 ***** D.Conn. 1992. Connecticut statute's news media recognition method for valid placement of presidential candidates on primary ballots was unconstitutional vague; Secretary of State was to place candidate on ballot based on whether candidate was "generally and seriously advocated or recognized according to reports in national or state news media." C.G.S.A. section 9-465(a).--LaRouche v. Kezer, 787 F.Supp. 298, affirmed in part, reversed in part 990 F.2d 36.

C-16.1 Constitutional test for exclusion of political candidate from ballot requires standard so that exclusion can be shown to be implementation of legitimate state interest, yet full accommodations of rights of voters and candidates by requiring candidates to show only significant modicum of support.--Id.

C-16.2 Although candidate's rights to access the ballot might not implicate highest level of scrutiny, rights of those seeking to exercise their constitutional rights for those candidates must be analyzed under strict scrutiny analysis.--Id.

C-16.3 States interest in avoiding "laundry list" ballots that confuse voters, and in protecting integrity of democratic process and, thus, restrictions on access to ballots are tolerated, though they must be balanced against fundamental right of potential candidates to be on ballot and of those seeking to exercise their fundamental right to vote for candidates of their choice.--Id.

C-16.4 Vague, statute is not reasonably necessary to achieve state's interest in regulating ballot access.--Id.

C-17 D.Conn. 1991. Campaigning for public office is an activity that may receive First Amendment protection. U.S.C.A. Const.Amend. 1.--Longo v. U.S. Postal Service, 761 F.Supp. 220, reversed 953 F2d 790, certiorari granted, vacated 113 S.Ct. 31, 121 L.Ed.2d. 5, on remand 983 F.2d 9 , certiorari denied 113 S.Ct. 2994, 125 L.Ed.2d. 689.

C-18 D.Hawaii 1990 First protects right to freely participate in electoral process; political participation should not be limited to those who adhere to ideals and goals of major political parties, but should include all citizens who wish to publicly support for certain candidate or political theory. U.S.C A. Const.Amend. 1.--Burdick v Takushi, 737 F.Supp. 582, reversed 927 F.2d. 469, opinion withdrawn and superseded on denial of rehearing 937 F.2d. 415, rehearing denied, certiorari granted 112 S.Ct. 2059, 119 L.Ed.2d. 245, reversed 937 F.2d. 415, rehearing denied, and rehearing denied, certiorari granted 112 S.Ct. 635, 116 L.Ed.2d. 653,, affirmed 112 S.Ct. 2059, 119 L.Ed.2d 245.

C-20 S.D.Ind. 1991. Indiana statute requiring that copy of voter registration list be furnished to major political parties violated equal protection rights of non-major political parties; county's interest in not being required to distribute list to anyone who might request them was not sufficiently important to justify unnecessary infringement upon First Amendment and equal protection rights of nonmajor political parties resulting from distribution lists to only two major political parties. U.S.C.A. Const.Amends, 1, 14; West's A.I.C. 3-7-7-10; 42 U.S.C.A. section 1983. Libertarian Party of Indiana v. Marion County Board of Voter Registration, 778 F.Supp. 1458.

C-21 S.D.N.Y. 1993. Voting is a fundamental political right U.S.C.A. Const.Amend. 14.--Baker v. Cuomo, 842 F.Supp. 718.

C-22 E.D.Pa. 1993. There is constitutional right of citizens to create and develop new political parties and right of individuals to cast their votes effectively, but state may regulate the number of candidates that will appear on the ballot. U.S.C.A. Const.Amends, 1, 14.--Patriot Party of Pennsylvania v. Mitchell, 826 F.Supp. 926, as amended, affirmed 9 F.3d. 1540.

C-22.1 Restriction of candidate access to the ballot will be subject to heightened standard of scrutiny if the law begins to affect people's right to vote. U.S.C.A. -Const.Amends, 1, 14,--Id.

C-22.3 - Ballot access laws that appear to arbitrarily discriminate against minor political parties are subject to strict scrutiny and, in the absence of compelling interest, or the use of most narrowly tailored means to advance state interest, it is not constitutional to require candidates of minor political parties to obtain more signatures for local offices than for state offices and it is not constitutional to require them to obtain a greater

number of signatures for a less significant office than for more significant one, especially where the opposite is true for major party candidates.--Id.

C-23 E.D.Pa. 1993. Right to vote,, per se, is not a constitutionally protected right, but where state provides that its representatives are to be elected, citizen has constitutional protected right to participate in elections on equal basis with other citizens in the jurisdiction.--Greenwood v Singel, 823 F.Supp. 1207.

C-24 E.D.Pa. 1991. Pennsylvania's special election statute permitting two major political parties to choose, according to party rules, nominees to fill partial term for United States Senate infringes on fundamental right to vote and, therefore, must be carefully scrutinized and can survive constitutional scrutiny only if commonwealth shows that it advances compelling government interest and is narrowly tailored to serve that interest. U.S.C.A. Const.Amends. 1, 14, 17; 25 P.S. section 2776.--Trinsey v. Com. of Pa., Dept. of State, Bd. of Elections, 766 F.Supp. 1338, reversed 941 F.2d. 224, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d. 750.

C-25 D.R.I. 1993. State's broad power to regulate voting franchise does not extinguish state's responsibility to observe limits established by First Amendment rights of state's citizens. U.S.C.A. Const.Amend. 1.--Devine v State of R.I., 827 F.Supp. 852.

Election year	1990	1992	1994	1996
Donald Gill	Democrat Senate Rhode Island (primary)	Independent Mayor West Warwick (general election)	Democrat Governor Rhode Island (primary)	Democrat Senate United States (primary)
John M. Carlevale, Sr.		Independent Secretary of State Rhode Island (primary)	Democrat Secretary of State Rhode Island (primary)	Cool Moose Senate Rhode Island (general Election)
Joseph F. Devine		Independent Governor Rhode Island (general election)	Republican Governor (disqualified for not disaffiliating)	
Robert F. Plante		Independent Senate Rhode Island (general election)	Republican Lt. Governor Rhode Island (primary)	Republican House of Rep. United States (primary)
Anthony Almonte		Independent Attorney General Rhode Island (general election)	Independent Attorney General Rhode Island (general election)	

PERCENTAGES OF REGISTERED VOTERS IN RHODE ISLAND